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COMMENTS  
TO GREEN PAPER

.....  
: UP TO FEBRUARY 1988 :  
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Comments of  
**AERONAUTICAL RADIO, INC.**

To the Commission of the European Communities

on the Green Paper  
on the Development of the Common Market  
for Telecommunications Services and Equipment

2551 Riva Road  
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December 23, 1987



Before the  
Commission of the European Communities  
Comments of  
**Aeronautical Radio, Inc.**  
on the Green Paper  
on the Development of the Common Market  
for Telecommunications Services and Equipment  
(COM(87) 290 Final)

Aeronautical Radio, Inc. (ARINC), welcomes the opportunity to submit comments to the Commission regarding the "Green Paper" on the Development of the Common Market for Telecommunications Services and Equipment. These comments reflect ARINC's experience as a provider of airline telecommunications and information services within the United States and between the U.S. and international points including nations of the EEC. ARINC offers these services as a communications company owned by the air transport industry. ARINC provides to the aviation community a number of private telecommunications and information services including the ARINC Data Network Service (ADNS), which distributes safety and operational information to the members of the industry.

ARINC supports the initiative of the Commission in formulating the recommendations in its Green Paper. Liberalization of the telecommunications environment in the European Communities will lead to substantial improvements in technology, flexibility and cost competitiveness for users.

These advantages will translate directly to tangible benefits for all network subscribers by increasing traffic and expanding trade.

ARINC approves of the overall goal of the Commission to encourage its member states to divorce the operational and regulatory sectors of telecommunications.<sup>1</sup> Such a goal -- in conjunction with the developing case law on "abuse of dominant position"<sup>2</sup> -- could well lead toward more efficient and effective provision of telecommunications services. ARINC trusts that the further work of the Commission will continue to promote the greatest feasible reliance on competitive market forces.

One of the Commission's Proposed Positions, however, may be of particular concern. Proposed Position J recommends the development and dissemination of EEC-wide common commercial policies in such forums as the General Agreement of Tariffs and Trade (GATT).<sup>3</sup> ARINC suggests that the Commission, under this proposed regulation, seek development of a common and pro-competitive European position in the upcoming World Administrative Telegraph and Telephone Conference (WATTC),

<sup>1</sup> See Green Paper, Figure 13, Proposed Position G.

<sup>2</sup> See, e.g., Italy v. Commission, 2 C.M.L. Rep. 368 (1985); Schulte-Braucks, European Telecommunications Law in Light of the British Telecom Judgment, 23 C.M.L. Rev. 39 (1986). See Also Green Paper, Figure 13, Proposed Positions A & B.

<sup>3</sup> Green Paper, Figure 13, Proposed Position J.

scheduled for December 1988. As the Commission is aware, the WATTC will consider regulations governing a host of non-public services (e.g., value added and private networks) never previously regulated. Although most of these services would appear to be beyond the exclusive privilege allotted to telecommunications administrations under the Treaty of Rome, some EEC nations have recommended that the WATTC authorize increased regulation.

Such an approach is inconsistent with the central principles of the Green Paper. As noted by Commissioner Karl-Heinz Narjes referring specifically to WATTC:

We believe that the role of the ITU cannot be maintained by extending international telecommunications regulation into insuited areas, but should be ensured--and confirmed--by making the ITU framework flexible enough to adjust to, and to accommodate the future open international trading environment for telecommunications services and equipment which the international community needs.<sup>4</sup>

ARINC fully concurs with this view. It now only remains for the EEC to ensure that the position taken at the WATTC by its member states reflects not merely the classical perspective of the PTTs, but the broader view of the political, trade promotion and foreign policy sectors of EEC governments.

Again, ARINC is pleased to have the opportunity to submit these comments and welcomes the initiatives of the Commission.

<sup>4</sup> Narjes, Telecommunications Policy Reform and International Trade: The European Community View, No. 29/87 at 9 (Dec. 4, 1987).



COMMENTAIRES DE L'AFUTT SUR LES  
PROPOSITIONS DU DOCUMENT DE SYNTHESE CONCERNANT LE "LIVRE VERT" DE LA  
COMMISSION DES COMMUNAUTES EUROPEENNES SUR LE DEVELOPPEMENT DU MARCHÉ  
COMMUN DES SERVICES ET EQUIPEMENTS DES TELECOMMUNICATIONS

Quelques réactions de petits utilisateurs professionnels et résidentiels  
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*Conscients de l'importance vitale et croissante des Télécommunications et d'une cohérence communautaire pour leur compétitivité, leur qualité de vie et leur sécurité, les utilisateurs - grands et petits - que représentent l'AFUTT approuvent chaleureusement les propositions exprimées dans le "Livre vert".*

*Ils apprécient l'objectif de fournir à l'utilisateur européen des infrastructures et services de télécommunications comparables aux meilleurs, aux "conditions les plus avantageuses" et dans un "environnement ouvert à la concurrence".*

\*  
\* \*

Les commentaires qui suivent sont présentés par rapport au texte intitulé "Positions proposées" dans le "livre vert".

Un détail préliminaire : il serait utile que les principaux termes utilisés dans le "livre vert" soient précisés, qu'une définition en soit rappelée (par exemple, qu'entend-on au juste par "droits spéciaux" des administrations des télécommunications ?).

\*  
\* \*

Les petits utilisateurs souhaitent évidemment bénéficier, tout comme les grands, des "conditions les plus avantageuses" ; l'utilisateur européen s'attend - et c'est normal - à bénéficier de matériels et de services, d'une réglementation, d'une qualité de service et de tarifs aussi avantageux que leurs homologues dans d'autres parties du monde.

Un "environnement ouvert à la concurrence" est essentiel : il est bien clair que le monopole est rarement à l'avantage de l'utilisateur.

A) Exclusivité ou concurrence pour les infrastructures

L'exclusivité, pourquoi ? La notion de "monopole naturel" est dépassée. Pourquoi des "droits spéciaux" à sauvegarder ? Avec un siècle d'avance sur tout nouvel opérateur qui serait admis, l'opérateur des infrastructures en place (avec d'importants investissements faits depuis longtemps et amortis pour la plupart) est en position de force et pour longtemps.

Ce qui peut mettre en jeu la viabilité financière du prestataire principal, ce sont les prélèvements arbitraires, excessifs et imprévisibles que fait l'Etat dans certains pays et non pas des mesures techniques (le danger de pertes de recettes qui pourraient résulter de détournements de trafic est minime en comparaison avec les amputations pratiquées par certains Etats sur le budget des télécommunications).

Si l'on maintient la notion de "droits spéciaux", il conviendrait de préciser quelles "obligations spéciales" en sont le corollaire (voir en page 11 du document en annexe : AFUTT-INFORMATIONS, N°76, 4ème trimestre 1987 : "Les obligations du service public des télécommunications, du point de vue de l'utilisateur")

#### B) Exclusivité ou concurrence pour les services de base

L'exclusivité est encore moins justifiée pour les services que pour les infrastructures et elle va encore plus contre l'intérêt des utilisateurs : quel fournisseur jouissant d'un monopole n'aura pas tendance à dire que sa sauvegarde en est essentielle ?

Et comment séparer le service vocal des autres, alors que l'on en est par ailleurs à la technologie du numérique et du RNIS (réseau numérique à intégration de services), dans lequel on ne distingue pas a priori à quels types de message correspondent les signaux transmis ?

#### C) Offre libre

Nous approuvons évidemment "l'offre libre de tous les autres services". C'est une position courageuse, le regard vers l'avenir.

A propos de "besoins partagés", si on ne permet pas à plusieurs petites entreprises de partager, par exemple, la capacité d'une liaison numérique qui serait trop importante et trop onéreuse pour une seule d'entre elles, on favorise les grands utilisateurs, on entretient une forme d'inégalité devant le service public.

Un autre domaine dans lequel l'accès partagé à des ressources communes pourrait utilement rendre des technologies avancées accessibles non seulement aux grands utilisateurs, mais aux petits, est celui des communications par satellites. Rappelons à ce propos qu'elles sont intéressantes pour les transferts de fichiers, mais non pour les communications interactives (les délais de propagation sont trop longs). L'utilisation de stations d'émission et réception (bi-directionnelles) doit être libre.

#### D) Normalisation

Des normes, oui, mais aussi simples que possible : ne pas rendre les matériels ou les services plus coûteux que nécessaire.

L'interconnectivité européenne, oui ; mais mondiale aussi. Un niveau européen d'amélioration de la communication est une première priorité, mais les besoins des utilisateurs ne s'arrêtent pas là.

Il est curieux de noter que les télécommunications sont un des secteurs d'activité les plus normalisés et les moins normalisés en même temps :

- On peut téléphoner, télexer, envoyer des télécopies ou des données dans le monde entier et c'est une très belle réalisation, mais (pour donner quelques exemples d'un point de vue d'utilisateurs) :

- . Les signaux de sonnerie ou d'occupation d'une ligne ne sont pas les mêmes dans tous les pays
- . La carte de crédit téléphonique ("Télécarte" en France) cesse d'être valable dès que l'on traverse une frontière

- . Il serait normal qu'il y ait un plan homogène de numérotation téléphonique à l'échelle mondiale ou au moins européenne
- . Pour utiliser le radiotéléphone en se déplaçant dans les pays de la Communauté, il faudrait transporter avec soi 10 modèles différents d'appareils (et avoir les abonnements correspondants),
- . On ne peut pas installer un autocommutateur français en Allemagne, ou vice-versa, sans de longues et coûteuses modifications. La portée de la reconnaissance mutuelle des agréments est évidemment très limitée si le manque de normalisation ne permet pas d'utiliser du matériel agréé dans un pays dans un autre pays de la Communauté.

E) Exigences générales pour l'utilisation des réseaux

Les exigences devraient être définies par une tierce partie aussi indépendant que possible des "prestataires principaux", afin que ceux-ci ne soient pas juge et partie.

Pour la concertation avec les autres parties concernées, il serait utile de préciser que l'on consultera particulièrement les représentants des utilisateurs, qui sont les premiers concernés et les bailleurs de fonds.

F) L'offre libre d'équipements terminaux

Il est certes intéressant pour l'utilisateur d'avoir un choix élargi en dehors des frontières de son Etat, mais cela n'a tout son sens que si des normes communes permettent l'utilisation de ces équipements dans les divers pays concernés.

Bien que cela ne soit pas très important, n'est-il est pas dommage d'admettre une restriction pour la fourniture du "premier combiné téléphonique conventionnel" ? (qui est libre en France)

G) Séparation des activités de réglementation et d'exploitation des réseaux de télécommunications

Une telle séparation est très importante. Encore faut-il réunir les conditions d'une indépendance aussi grande que possible de l'organisme de réglementation.

H) L'application du traité CEE

Le fonctionnement des opérateurs principaux semble assez loin de l'esprit des articles 85, 86 et 90 du Traité CEE (concurrence, pas de fixation des prix, pas d'exploitation abusive d'une position dominante). Pourquoi les prestataires principaux ne devraient-ils pas aussi être soumis à la concurrence ? La démonstration est faite (en Grande-Bretagne) que cela ne fait pas échec à l'accomplissement de missions particulières qui leur ont été imparties (Mercury ne met pas en péril l'accomplissement des missions de service public de British Telecom).

I) Abus de position dominante

Cette notion devrait être applicable à tous les opérateurs, pas seulement aux prestataires privés.

J) Application de la politique commune

Pas de commentaires.

En complément des commentaires de petits utilisateurs suscités par les "positions proposées" dans le "livre vert", l'AFUTT exprime les suggestions suivantes :

### 1 - Participation des utilisateurs

Il serait intéressant que le "livre vert" précise la nécessité d'une participation active des représentants des utilisateurs à tous les niveaux où sont préparées ou prises des décisions les concernant et au suivi de leur mise en oeuvre ; c'est une condition d'efficacité et de satisfaction des utilisateurs et une façon d'éviter des erreurs. Cette participation est à encourager, à aider, peut-être même à subventionner.

Par exemple, la participation des utilisateurs à l'activité du futur Institut européen de normes de télécommunication nous paraît être un facteur d'efficacité loin d'être négligeable. Mais il ne serait pas réaliste de mettre comme condition à la participation des utilisateurs le paiement par eux d'une importante contribution aux frais : "ils ont déjà payé", ils financent les différents organismes internationaux concernés chaque fois qu'ils paient leurs factures de télécommunication.

### 2 - Politique tarifaire

2.1 Les petits utilisateurs professionnels souhaitent une politique tarifaire leur ouvrant des facilités telles que les circuits loués, dont le prix est trop souvent prohibitif pour une petite entreprise.

2.2 Il faut gommer les frontières sur le plan tarifaire : un circuit loué, par exemple, ne devrait pas voir son prix augmenté parce qu'il traverse des frontières administratives entre les Etats.

2.3 Il est particulièrement important pour les petits utilisateurs (professionnels et résidentiels) qu'un équilibre soit trouvé entre la vérité des prix qu'appelle une bonne gestion et le maintien des péréquations qu'impliquent la notion de service public et des impératifs d'ordre social et d'aménagement du territoire.

### 3 - Information sur les coûts

Deux types de services sont importants pour le petite utilisateur, qui n'a généralement pas un matériel assez sophistiqué pour lui permettre une gestion appropriée de ses dépenses téléphoniques :

3.1 La facturation détaillée, mensuelle et gratuite des appels interurbains et internationaux.

3.2 La possibilité d'utiliser des compteurs d'unités téléphoniques chez l'abonné, actionnés par des impulsions électriques renvoyées sans supplément de prix par l'opérateur vers les lignes des clients.

... / ...

4 - Traitement équitable des litiges

Les litiges entre l'opérateur et l'abonné doivent être traités par une tierce partie indépendante (juge, arbitre, commission paritaire ou autre) : ce n'est pas au fournisseur de juger si son client a tort ou a raison (ni de décider s'il y a lieu ou non de suspendre son service).

5 - Agrément et politique industrielle

L'agrément ne doit pas être une source de surenchérissement, ni de délais qui pourraient retarder la disponibilité des techniques les meilleures.

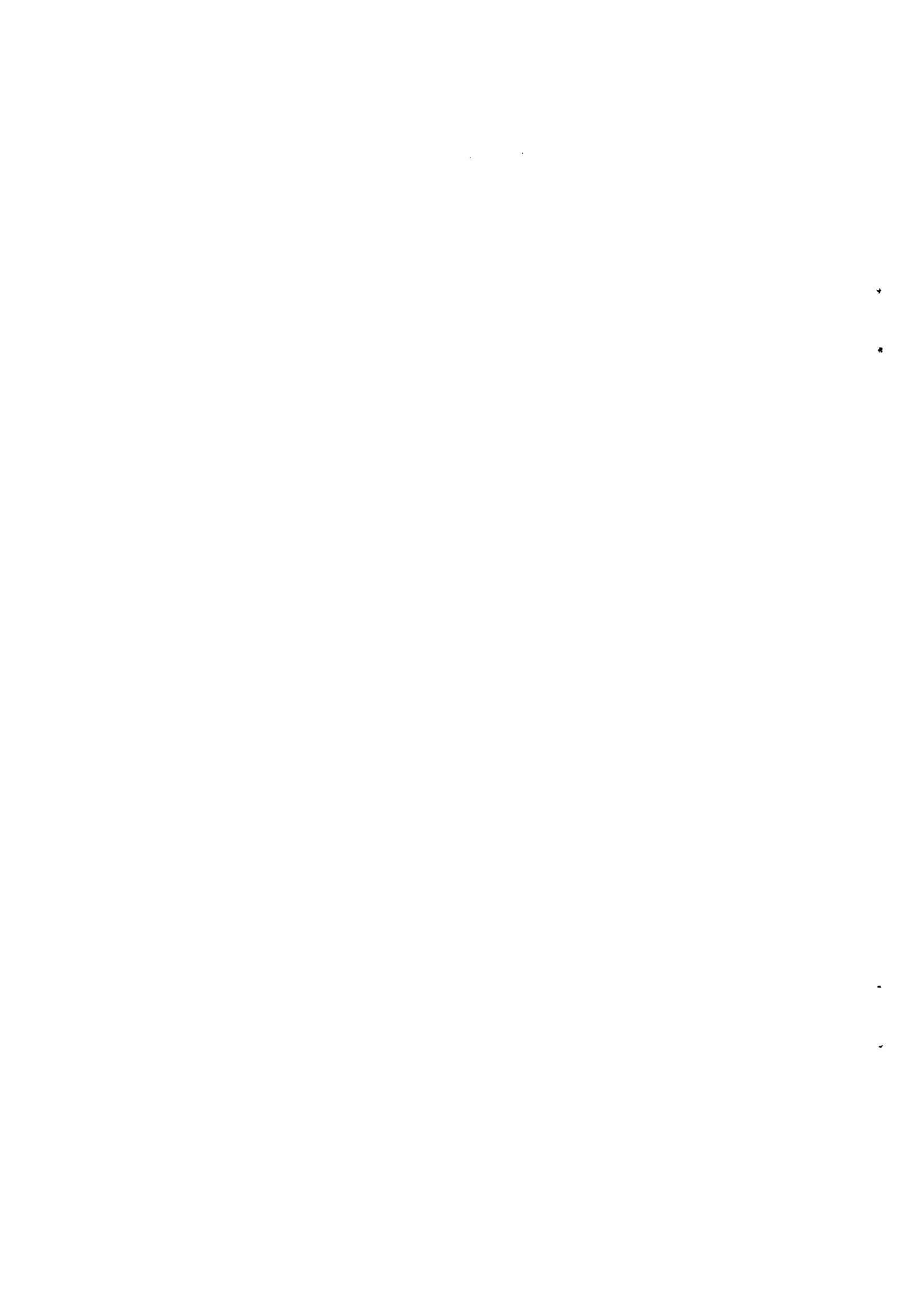
Ce n'est pas par l'agrément que doit s'exercer la politique industrielle des Etats ou de la Communauté.

6 - Un "livre vert" permanent

Remise à jour permanente du "livre vert", afin qu'il garde toute son actualité comme document de référence, dans un domaine dont le contexte technologique, réglementaire, financier est aussi changeant.

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26.01.88



REACTIONS DE GRANDES ENTREPRISES  
MEMBRES DU CLUB DES TELECOMMUNICATIONS DE L'AFUTT  
SUR LES POSITIONS COMMUNAUTAIRES PROPOSEES (LIVRE VERT)

Il est convenu, au départ, que le document de référence au "livre vert" sera "Les positions communautaires proposées" (art. VI, encadré 2).

1 - L'AFUTT souhaiterait que la notion de "droits spéciaux" soit précisée (A et B)

2 - Les opérateurs (administrations ou entreprises) des télécommunications, à qui seront confiées, par les Etats membres, la sauvegarde de l'infrastructure du réseau général dont elles ont la charge (A), devront néanmoins se préparer à opérer dans un environnement concurrentiel de nature à stimuler la qualité de leur service.

3 - Par "infrastructure du réseau public", on entend "réseau de transport avec équipements de commutation" (A et B), à l'exclusion des services qui peuvent être fournis de façon concurrentielle (C et F).

4 - Il conviendrait de préciser la définition du service public (B), en particulier ses missions (B) et obligations.

5 - D'une manière générale, les monopoles - qu'ils soient publics ou privés - ne sont évidemment pas favorables aux utilisateurs, qui souhaitent trouver un environnement concurrentiel et par conséquent appuient la conception exprimée au paragraphe B pour éviter une extension du monopole qui serait incompatible avec les dispositions du Traité de Rome.

6 - Les réseaux privés d'entreprise se développent. A cet effet, ils ont besoin de liaisons spécialisées nationales, mais aussi européennes et mondiales (A). Les Etats doivent en garantir les infrastructures de base (B).

7 - L'évolution technologique ne permet pas d'assurer la pérennité du monopole au service téléphonique vocal, dans la mesure où le RNIS ne permet pas la séparation de la voix et des données (B).

Paroles et données sont exprimées et transmises sur le réseau en "bits" non distinguables (B) lorsque le dit réseau est numérisé.

8 - La pérennité des liaisons spécialisées sera-t-elle assurée lorsque le RNIS se généralisera (A + C) ?

9 - S'orientent-elles vers la vérité des coûts de revient (A + B) ?

10 - Il est illogique de faire payer à des prix variables, un service qui ne supporte que des coûts fixes (A + B)

C'est pourquoi la tarification des LS (liaisons spécialisées) au volume ne serait pas comprise par les utilisateurs (A + B + E + G).

L'AFUTT considère qu'il y a là une menace pour l'innovation, voire un frein au progrès.

11 - L'existence de plusieurs opérateurs impliquera la mise en place, à l'échelle européenne, d'une fonction régulatrice indépendante des Etats membres (C + G + J).

Sous quelle forme : commissio de coordination, organisme supra-communautaire ?

12 - L'AFUTT affirme la nécessité de normes au moins européennes, en priorité pour les services de base (B + D).

13 - Les utilisateurs souhaitent des standards communs pour les réseaux de commutation de paquets et le RNIS (B + D).

14 - Il semble utile de créer un organisme européen de normalisation qui aurait pour mission essentielle d'orienter et d'accélérer le processus de normalisation (pour permettre très rapidement l'interconnectivité en Europe) (D + J), à condition qu'il n'apporte pas une lourdeur supplémentaire, des délais ou des frais excessifs.

15 - Les utilisateurs français, déjà habitués à une certaine liberté, approuvent la position F du livre vert dans le sens d'une offre libre (sans restriction) d'équipements terminaux.

16 - L'interconnectivité des réseaux demeure un impératif (D).

17 - Tout agrément dans un des pays membres doit être applicable dans les autres pays de la Communauté.

18 - L'AFUTT souhaite un allègement des procédures d'agrément qui introduisent des délais et des coûts supportés par les utilisateurs. A terme, les équipements (matériels, logiciels) ne pourraient-ils pas faire l'objet d'une simple déclaration de conformité à des normes ou spécifications européennes ?

19 - D'une manière générale, l'AFUTT est pour la plus grande liberté compatible avec les impératifs de qualité, d'exploitation des réseaux et de maintenance (G), tout en préservant les meilleures possibilité d'inter-connection à l'échelle européenne et mondiale. Comme indiqué dans le document de synthèse du "livre vert" (p. 2) "... les utilisateurs ... doivent être les principaux bénéficiaires des nouvelles possibilités ..."

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26.01.88

**Comments on  
the EC Green Paper  
on the development of the  
common market  
for  
telecommunications services  
and equipment**

**November 1987**



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## 1.0 Introduction

The EC Committee of the American Chamber of Commerce in Belgium is the sole organization in Europe representing the views of European companies of American parentage. It also represents the interests of the European Council of American Chambers of Commerce (an association of 13 American Chambers throughout Europe, representing some 20,000 members, \$100 billion of US investment in Europe and 9 million European employees) on issues concerning the European Community and the Council of Europe.

A list of the companies active in the EC Committee of the American Chamber of Commerce in Belgium is included at the end of this document.

The EC Committee of the American Chamber of Commerce in Belgium, hereafter referred to as the EC Committee, believes that the Commission of the European Communities has prepared an excellent, comprehensive document analyzing the future direction of telecommunications in the Community. The EC Committee is encouraged by the emphasis the Commission has placed on the need to introduce more competition into the telecommunications equipment and services markets in Europe. We believe that competition is an effective way of ensuring that the best products and services reach the customer at the lowest price and in the most timely fashion. The Commission has recognized that a healthy telecommunications industry will help spur economic growth throughout the economy as more and more industries utilize telecommunications as a vital tool to maintain and enhance competitiveness. Indeed, the availability of high-quality and efficient telecommunications products, equipment and services provides a major benefit to a national economy by helping attract commerce and industry.

Information is more and more widely recognized as one of the four most important productivity factors for economic growth and prosperity. Telecommunication services and applicable tariffs and regulations play an important role in the distribution of such information not only to large corporations but also to each business entity and hence to each individual as an end-user. Although the emphasis of the Green Paper is on telecommunications markets and their supporting infrastructure, it is believed that the Commission is aware that commerce and industry in general depend more than ever on information technology for their efficiency and competitiveness. Telecommunications is an integral part of this process. Thus, telecommunications directly affects the ability of businesses to create wealth, and as a result supports employment and the overall quality of life. This being so, there must be agreement that the interests of businesses as a whole should take precedence over the narrower interests of the telecommunications sector.

The overall prosperity of a nation can be significantly improved through the 'Free Flow of Information', the creation of an environment where information is made available on a timely, efficient, and cost-effective basis. Actions like restrictive telecommunications regulation and/or excessive tariffs serve only to stifle the rapid evolution and use of the many information technology services necessary for today's complex society. Any user wishing to improve his personal and corporate prosperity has a vested interest in seeing that restrictive telecommunications regulations be changed to permit choice of efficient and cost-effective access to information. In the context of the rapid evolution of technology which is providing users with numerous

functions, features, and cost cutting options, a large variety of user requirements can best be met through an open competition process. Except where it can be demonstrated that non-competitive provision is more efficient and cost-effective and does not limit the choice of users in satisfying their information needs, users would like to see that the proven concepts of open competition are equally applied to telecommunications equipment and services.

The policy framework set forth in the Green Paper is encouraging for its liberal approach to the restructuring of the European telecommunications market. - The EC Committee hopes that the Commission will allow those Member States willing to liberalize more rapidly than others the flexibility to do so. The EC Committee believes that the direction in which the Commission is attempting to point its Member States is the correct one because it is in line with technological and market trends.

The EC Committee's positions on particular aspects of the Green Paper are discussed below.

## **2.0 Summary**

The EC Committee welcomes the initiative of the Commission in publishing the 'Green Paper on the Development of the Common Market for Telecommunications Services and Equipment', COM(87) 90 final, dated June 30, 1987, hereafter referred to as the 'Green Paper'.

The EC Committee agrees with the directions expressed in the Green Paper, as well as with the general rules and principles detailed in it. We believe that the Commission's proposals for action are a necessary step towards the completion of the internal market by 1992.

In the context of the public debate initiated by the Green Paper, the EC Committee's willingness to elaborate on some ideas should be seen as a constructive contribution to the process and not as a criticism of the work done by the Commission.

In section 3 we briefly comment on the 10 proposed positions outlined in fig. 13 of the Green Paper.

In further sections we develop more extensively our comments on specific issues included in fig. 13 of the Green Paper or in other parts of the document.

These are :

### **1) Standards**

We support the efforts of the Commission in setting up a common standardization system for Europe, but we want to highlight the world-wide dimension of standards. Also we wish to underline the potential risk of over-specifying standards and equipment attachment procedures, which could have a negative impact on the innovation and creativeness of the business community.

### **2) Open Network Provision**

We agree with the Commission that the definition of the conditions for usage of the network by service providers is a necessary step in opening services to competition. Our views on these conditions should be seen as a contribution to the planned proposal for a Directive on Open Network Provision.

### **3) Competition in network equipment**

We fully support the Commission's goal of a fully open common market for terminal equipment and for the acceleration of existing action lines on the opening of procurement contracts for network equipment. We urge the Commission to place greater priority on encouraging competitive bidding and open procurement.

**4) The formulation and application of competition policy in the European telecommunications markets**

We welcomed the Commission decision of December 10, 1982 on the 'British Telecom Case' and the subsequent judgement by the Court of Justice of March 20, 1985; we encourage the Commission to play an increasingly active role in the application of Community competition rules to the telecommunications sector.

We fully support the Commission's position on the separation of regulatory and operational activities of the Telecommunications Administrations. We submit some ideas on the role of a national regulatory body.

**5) The external dimension of a Community telecommunications policy**

We believe this is an important area that should be addressed very carefully by the Commission. In particular, we point out our views on telecommunications services in the GATT Round, and on a way to handle the requests by outside providers for interconnection and service provision. We further express our concerns on the WATTC re-regulation process.

**6) Free flow of information**

We support the Council's ratification of the Council of Europe Convention on data protection. We expect to see intellectual property protection addressed in the Commission's forthcoming Green Paper on copyright.

**7) Economic and social impact considerations**

The EC Committee supports all constructive plans that the Commission may recommend to minimize potential transitory negative consequences to individuals and enterprises. Likewise and with due regard for the constructive role each Telecommunications Administrations can play in this area, we encourage future actions by the Commission to harmonize the conditions for boosting the economic benefits deriving from the free and competitive provision of information services within and beyond the Community.

### **3.0 Comments on the ten proposed positions of the Green Paper**

#### **A) Network infrastructure:**

The EC Committee has no objections in principle with the decision to continue the exclusive provision of network infrastructure, provided that the scope of network infrastructure is defined in such a way as to mean transmission and switching facilities, and not including functions that can be better provided in a competitive environment.

However, it is our view that satellite technology holds the promise of particularly valuable benefits towards the achievement of a European telecommunications dimension and should not be subject to such exclusive provision.

Moreover, we believe that a progressive opening of network infrastructure to appropriately licensed operators will stimulate innovation and fulfill specific user requirements.

#### **B) Exclusive provision of basic services**

We agree with the Commission's statement that the exclusive provision of services must be narrowly construed and be subject to review within given time intervals.

We also agree with the Commission that voice telephony is the only obvious candidate to be a reserved service, provided that it refers only to basic voice services over public switched voice networks and not to any other voice service.

In changing the telecommunications environment, it is essential to ensure that continuity of services is maintained whilst new services and operating arrangements are introduced. One of the most important services which telecommunications facilities provides is the telephone service. It reaches across domestic and business subscribers and represents an essential component to customers and users while providing a major revenue source and responsibility to the existing Telecommunications Administrations and Operators.

Consistent with the introduction of competition, a transition phase must therefore be agreed upon in order to protect this aspect of the operation. Each nation should be given a sufficient amount of time to complete this transition, yet allow for competition in both national and international services to be gradually introduced.

**C) Unrestricted provision of competitive services**

The debate on what is 'Basic' and what is 'Value Added' has been taking place for some time with little or no agreement on a definition. The terms 'Reserved Services' and 'Competitive Services' as proposed by the Green Paper are better and more constructive descriptions.

The network owner/operator should be allowed to engage in competitive activities on the same terms and conditions as a non-network operator, offering competitive services.

The independent regulatory arrangements proposed should ensure that Telecommunications Administrations, the providers of the network infrastructure, do not abuse their monopoly position to participate in competitive markets without adequate safeguards to prevent unfair competition.

The EC competition law and commercial policy can be utilized to support this proposal. Public service objectives should align with a competitive environment in such a way that end users and operators optimize the usage of the network infrastructure to the best possible mutual advantage.

**D) Requirements regarding standardized services**

We support the Commission's goal of efficient Europe-wide and world-wide communications. We disagree, however, on the perception that the participation of Telecommunication Administrations is a pre-requisite to accomplishing such a goal. This imposes an obligation upon Telecommunications Administrations and can be considered as an extension to their public mandate. We believe that a wide choice of telecommunications services across Europe can best be achieved under a regime of open competition. Telecommunication Administrations should be encouraged to participate where there is a reasonable demand for their products. A clear separation between competitive and reserved activities of Telecommunications Administrations should be a pre-requisite for their participation in the competitive marketplace.

There is a need to harmonize standards for interfaces to public services and for attachment of terminal equipment to the network infrastructure. Mandatory standards should be based solely on safety and on 'no harm to the network' requirements and should not include functional or performance requirements. Functional or inter-operability requirements should be part of a voluntary certification process. Users may request manufacturers to declare conformity with a particular service.

**E) Open Network Provision:**

We fully support the aim of the Commission to propose a Directive on Open Network Provision (ONP). In principle, we agree that the Telecommunications Administrations, in consultation with users and competitive service providers, should develop and adopt common principles regarding the standards and interfaces offered for interconnection to the network, tariff principles, and the allocation of frequencies. This is needed to stimulate an integrated European market for value-added services. Common network standards and interfaces should be established that are open to providers of competitive services on the one hand, and that do not overly constrain the evolution of the network architecture of the network providers on the other. Achieving a balance between the two will require the cooperative participation of all interested parties.

Details of the Directive will be prepared in the framework of SOG-T. In this respect we would appreciate guidelines from the Commission to the Member States to ensure that users and the information technology industry can effectively participate in the development of an ONP framework at the Member State level and at the Community level.

**F) Unrestricted provision of terminal equipment**

We agree with the Commission's support for unrestricted provision of terminal equipment. We believe that the provisioning of the first (conventional) telephone should not be excluded or, at most, a precise timing for open provision should be specified. We also believe that any network terminating equipment, to either analog or digital networks, should be provided in open competition.

The installation and maintenance of terminal equipment, including satellite antennas, should be open to anyone who has the technology and the capability to do so. Further, the number of installation and maintenance service providers should not be arbitrarily pre-set.

We support the initiatives of the Commission towards a mutual recognition of type approval for terminal equipment. We also suggest that the Commission encourage the acceptance of tests performed by manufacturers.

**G) Separation of regulatory and operational activities:**

One of the most important factors that will create a basis for introducing change in telecommunications at the national level is the separation of the regulatory and operational responsibilities. Therefore, the EC Committee strongly supports the establishment of an independent regulatory entity at the national level.

It is recognized that each country needs to evaluate how this separation can be achieved and which type of organization will emerge.

Examples of an independent regulatory body are the FCC in the United States and OFTEL in the United Kingdom. In both nations, certain advantages and disadvantages can be observed; but an important factor is apparent in both of these situations: competition in services and terminal equipment ( and also in the provision of infrastructure ) is thriving, and all interested parties participate in the regulatory debate.

Even in a situation where the telecommunications facilities remain the responsibility of one entity and competition is not encouraged, an independent regulatory organization is essential to the equitable use of resources for national and international services by end users and as a means of introducing changes when timing and national objectives are appropriately positioned.

The establishment of a new regulatory environment is essential if competitive telecommunications services are to become a trigger for economic advancement. Replacement of existing regulations that protect the telecommunications regime by new, equally protective arrangements is not an acceptable alternative. Again, separation of operations from the regulatory arrangements could prevent such a situation from developing.

The establishment of an international regulatory authority is not seen as a requirement at this time. Such an entity should only be considered, if at all, after the national arrangements have been implemented.

**H & I) Strict continuous monitoring of commercial activities of Telecommunications Administrations and of private providers**

In both areas, the requirements for continuous review of commercial activities, for a thorough understanding of the national Telecommunications Administrations, and for detailed knowledge of local market conditions would seem to require some substantive local involvement in coordination with the Commission. Should this involvement be the responsibility of the national regulatory body -as it seems appropriate- the requirement of its true independence from the Telecommunications Administration is very important.

**J) Common Commercial Policy:**

We have developed some comments on the GATT Round and on the WATTC in section 8.3. We agree with the statement made by the Commission that 'The WATTC 88 conference will have a major influence on the Community's future external relations in telecommunications' ( p. 172 ). But we also think that WATTC 88 will have a major influence in the procompetitive environment envisaged by the Commission. It is unfortunate that the monopoly views and interests of the individual Telecommunications Administrations and operators, rather than those of the competitive service providers, the users, and the Community, may have played a disproportionate part in developing the present draft regulations.

## 4.0 Standards

The EC Committee is supportive of the Commission's objective of removing barriers to the provision of telecommunications equipment and services between its Member States. The Commission's emphasis on the development and implementation of pan-European standards will make a substantial contribution to this objective.

We want, however, to make the following general remarks:

- The telecommunications business is now more than ever a truly global business. The Commission's efforts to create a truly common European market must take into account developments in other markets and should not erect barriers between the European market and these other markets. Encouraging European standards to move towards total compatibility with international standards will facilitate the participation of European companies in the larger total marketplace and will facilitate a freer exchange of technology among nations.
- Mandatory application of standards should be restricted to aspects of safety and protection of the network and personnel against injury.
- Other aspects of the standards should be complied to voluntarily by manufacturers.

We fully support the concept of mutual recognition of type approval as a way to simplify the currently expensive and time consuming procedures for type approval by avoiding repetition of tests and approval processing in every Member State. The extension of the current directive on mutual recognition of test results to a full recognition of type approval will benefit users and manufacturers.

We are concerned, however, over the following specifics of the process for development and standardization OF NETs (Normes Europeenes de Telecommunication).

### 4.1 Scope of NETs

The directive on the initial stage of mutual recognition of type approval for telecommunications terminal equipment ( 86/361/EEC ) states that common conformity specifications, on which NETs are based, should be drafted on the basis of essential requirements; four essential requirements are listed in the directive. While we have no objection to the first 3 requirements -which are based on safety considerations- we express concern over the fourth requirement which refers to '*interworking of terminal equipment in justified cases*'. Interworking of terminal equipment should be based on international standards and the compliance voluntary. When users buy a product for connection to a given service, they expect compatibility with that service as well as the ability to interoperate with other terminals attached to the same or to a compatible service. In order to fulfill user requirements, manufacturers will comply with the established standards; otherwise they will be out of that marketplace. Therefore, interoperability requirements need not be made mandatory. If requirements other than the minimum necessary to ensure personal safety and network protection are made mandatory for type approval, the tests will become more complex, costly and time consuming. The manufacturer will be constrained by type approval costs and delays every time he wants to introduce new technology, either to

reduce cost or to upgrade a product by incorporating additional features or functions. We support, instead, a voluntary certification process for functional compliance on an European and international basis.

#### **4.2 Development of NETs**

CEPT (whose membership is restricted to Telecommunications Administrations) has been given the responsibility for NETs development. We are encouraged by the recent decision of CEPT to allow the industry to participate in the NETs development process. We believe, however, that effective participation of industry has not yet been achieved. Because NETs will have a significant impact on industry and users, with users being the ultimate payers for services and equipment, we advocate participation of both industry and users on equal terms with Telecommunications Administrations. These terms should include -among others- participation in the establishment of priorities and schedules, and involvement in the TRAC (Advisory committee of CEPT) decision process. We consider also that CEPT's limitation on the number of industry representatives on national delegations to technical sessions is an arbitrary one. Open representation should be encouraged.

#### **4.3 Standards Institute**

We note the fact that since the publication of the Green Paper, CEPT has on its own proposed the creation of a European Telecommunications Standards Institute (ETSI). We certainly hope that it will not produce an undesirable period of uncertainty and adjustment, as well as potential overlapping with other standardization bodies. We do see, however, this initiative as a way of improving current CEPT procedures in the development of NETs and of allowing an effective participation of industry and users on equal terms with Telecommunications Administrations. CEPT activities in standardization, other than NETs development, should be conducted under current CEN/CENELEC voting procedures. In the long term an integration of the multiple bodies developing standards in Information Technology and Telecommunications should be considered. This integration, leading to the creation of an European Standards Institute -not restricted to telecommunications-, should foster a close co-operation with international organizations such as IEC, ISO and CCITT.

## 5.0 Open Network Provision

We fully support the Commission's intention to propose a directive on Open Network Provision. We consider that it is a crucial step to achieve effective competition in telecommunications.

Details of the directive will be prepared in the framework of SOG-T. In this respect, we suggest that the Commission provide guidelines to THE Member States to ensure that users and the information technology industry can effectively participate in the development of an ONP framework at the Member State level and also at the Community level.

### 5.1 The network boundary

The definition of the boundary of the network is key to the overall objective of the directive. We believe that the boundary should be clearly defined and be as independent of the technology as possible. In our view, the boundary should be defined at the line termination of the local loop that links the central exchange to the customer's premises.

We are encouraged by the Commission's actions in favor of competitive provision of network terminating equipment (modems) for analog networks. However, in the case of digital technology, the Council Recommendation on ISDN recommends a standard physical interface at the CCITT 'S' or 'T' reference points and it states that *'at least the NT1 function is provided by the public operator'*. This recommendation leaves part of the equipment installed at customer's premises out of the competitive market.

The provision of NT1 (Network Termination 1) equipment in open competition requires a standardized interface at the CCITT 'U' reference point (interface between the NT1 and the line termination). Some argue that this standardization is not feasible because it is dependent on loop technology and that the loop maintenance cannot be performed if the providers of the network don't provide at the same time the NT1 equipment. We believe that, as in the case of analog technology, a set of signal levels can be specified as well as the requirements for the loop-back function. Restricting the NT1 equipment to exclusive provision by the Telecommunications Administration will prevent manufacturers from achieving economies of scope gained by incorporating NT1 function within the terminal equipment as in the case of integrated modems.

### 5.2 Interfaces to the network

Whatever access a network owner/operator provides between its local central office and its own value-added services, it ought to provide that same access to any provider of competitive services in a similar manner, under the same conditions and at the same tariffed rates charged to its own competitive services.

It is also necessary that diagnostic and control information is made available to competitive services providers in order that they can achieve an efficient service management.

We welcome the Commission's activity in the definition of Open Network Provision under the framework of GAP ( Group of Analysis and Forecasting of SOG-T ). We think the Commission should encourage standardization in the ISDN area to allow an effective provision of a wide range of value-added services. In particular, we believe that standard interfaces at reference point 'M' for specialized service providers, and at point 'P' for specialized network resources, as designated in the CCITT ISDN reference model, are urgently required.

### 5.3 Usage conditions

Development of existing market potential in competitive services requires the elimination of most of the restrictive conditions related to the usage of the network infrastructure by many Telecommunications Administrations. These conditions are, in fact, barriers to trade in services.

This is just a sample list of restrictions :

- Forcing service providers to build up their offerings over public switched networks
- Plans or statements to phase out leased lines
- Prohibitions to interconnect private networks to public networks
- Prohibitions or surcharges on third party traffic
- Prohibition of 'message switching'
- Prohibition to optimize network utilization by multiplexing with user provided equipment
- Restrictions on the attachment of terminal equipment of the user's choice
- Prohibition of resale
- Usage sensitive tariffs on leased lines

Very often the rationale for those restrictive conditions is the preservation of financial viability of Telecommunications Administrations and the prevention of 'cream skimming'. We are concerned that those conditions are in conflict with the competition rules of the Treaty. The Commission's decision of December 10, 1982 on the 'British Telecom Case' seems to give support to our concerns.

We suggest that the Commission make an exhaustive analysis of all existing restrictions and take a further decision in light of the competition rules of the Treaty.

In the next section, we develop some considerations on 'cream skimming' related to resale and usage sensitive tariffs for leased lines.

### 5.4 Tariff principles

We endorse the Commission's intention to promote a cost oriented approach for telecommunications tariffs for reserved services. We also share the view of an inevitable trend towards rebalancing local and long distance tariffs. Based on costs, the tariff structure should allow a reinvestment capability for the continuous development of network infrastructure, perhaps supplemented with access to other financial resources.

We do not agree, however, on the perception that there is an inevitable conflict between the 'universal service' obligations and cost-orientation principles. — — —

A fully cost based tariff scheme will produce, in our view, the following effects:

- An increase in local rates and a decrease in long distance rates. While this will have an immediate positive effect on the business community, it will also be beneficial for the whole of society as it will help offset the inequities between residents of large urban areas and those in remote regions. If there is a social need to subsidize local rates, it should be done in a 'transparent' way, either from public funds or from revenues of the same service (i.e. telephone service). We see it as unfair to cross-subsidize among different types of services (i.e. telephone service subsidized from public data network service or vice-versa).
- A reduction in the potential for resale ( i.e. offering voice services over leased lines )

Many Administrations are concerned about 'voice resale'. We believe that a cost based tariff scheme will reduce the room for resale. The Commission seems to be in favor of banning simple voice resale as a response to the Administrations' concerns; we do not object to this approach provided that it is limited to a fixed transitional period after which the whole situation should be revisited.

We do not agree with the Commission's perception that a usage sensitive mechanism for leased lines is a reasonable approach to prevent 'cream skimming' or 'resale'. Usage sensitive tariffs will prevent voice resale, but at the same time will produce a negative impact on value-added and data services offerings and on users.

Users and service providers select leased lines not by chance, but for reasons such as security, reliability, response time, network management, etc. Users have already invested in applications that will not work properly over public switched networks. We strongly argue for the availability of leased lines at flat rates in and between Member States. To do otherwise would be detrimental to existing applications as well as to the development of new and innovative ones.

### **5.5 Service performance criteria**

Telecommunications Administrations should be legally obliged to provide and maintain their reserved services and network infrastructure -when they are the sole or privileged providers- to minimum pre-determined parameters. These parameters should be set by a European Standards Institute (as described in section 4.3) dealing with information technology and with telecommunications standards. Again user representation in this body is essential to its functional fullness.

## 6.0 Competition in network equipment

In addition to the Commission's proposed positions discussed in section 3.0 of our comments, the Green Paper also includes within the Acceleration of Existing Action Lines a proposal that Recommendation 84/550/EEC on public telecommunications procurement be replaced on a phased basis by a Council Directive (p. 188). The EC Committee strongly supports the acceleration of this action line because we believe that the opening up of procurement for network equipment to competition is critical to the achievement of the Community's objective of '*a technically advanced, Europe-wide, and low cost telecommunications network*'.

A truly integrated, competitive European market for telecommunications services and equipment would be incomplete without the inclusion of network equipment as a key component in the Commission's program. Because network equipment is the foundation for the telecommunications network infrastructure over which services travel and to which terminal equipment is attached, lack of competition in this important market segment has direct implications for telecommunications users. Indeed, the same advantages that will accrue to users, to European industry and to network providers from the establishment of a competitive market for terminal equipment and for certain services are just as significant for the network equipment market. Advanced telecommunications networks are the results of efficient, feature-rich hardware and software. Both the providers of services and the users benefit if the network equipment products are developed and delivered in a climate of competition.

Likewise, network equipment standards should be included in the Community's effort to develop common pan-European standards for telecommunications equipment and services. It is imperative that network equipment standards be set to enable European suppliers to participate in the global marketplace. This implies that pan-European network equipment standards should support international standards.

Thus, the EC Committee agrees with the Commission's recognition of the importance of creating a truly open, common internal market for network equipment in order for European suppliers to achieve the necessary economies of scale. (This position is also supported by UNICE's statement on '*A Telecommunications Policy for Europe*'). As the Commission has noted, the research and development costs for network equipment have become so great that they can no longer be supported by a single national market.

The Green Paper states that '*The development of a common market in network equipment must therefore go hand in hand with a substantial increase in the transparency of procurement procedures of the Telecommunications Administrations, in order to ensure an open market in telecommunications equipment*'. (p. 91). In order to achieve a fully open, common market by 1992, the Commission recommends the accelerated development of common specifications for network equipment and their use in public purchasing. The Commission also recommends accelerated implementation of Council Recommendation 84/550/EEC, which encourages Member States to ensure that Telecommunications Administrations provide opportunities for undertakings established in other Community countries to tender on a non-discriminatory basis for at least 10% in value of their annual orders regarding contracts for switching and transmission apparatus.

The Commission has proposed that initially the recommended rate be increased from 10% to 40% and that in 1989 the recommendation be made a directive. The EC Committee would like to underscore the critical nature of the timing of this proposal if a fully open, common market for network equipment is to be achieved by 1992. First, the increase from 10% to 40% is critical in the immediate future because a 10% share generally will not be sufficient to support the necessary adaptation costs incurred by a new supplier. Second, the 1989 (or earlier date) for the directive is critical because network equipment procurement contracts are generally long term, and contracts entered into in 1989 (and earlier) may well foreclose significant portions of the market beyond the 1992 target date.

Thus, the EC Committee fully supports the Commission's goal of a fully open, common market for network equipment and the Commission's proposed accelerated action to achieve that goal.

## **7.0 The formulation and application of competition policy in the European telecommunications markets**

The objective of the Green Paper is to encourage the harmonious development of a competitive telecommunications market in the Community, at least for the markets in non-reserved services and for terminal and network equipment. The role of increasing competition in stimulating innovation and demand is clearly central in the Community's proposal. There is, therefore, a need both for the legal framework of the applicable competition laws to be made clear, and for an administrative structure that ensures that those laws are effectively applied.

The EC Committee therefore welcomes and supports a clear commitment from the Commission to the full and effective application in the telecommunications sector of the Rules on Competition in the EC Treaty (Articles 85-90). In this context, the EC Committee has favourably noted the Commission's willingness to take specific action against anti-competitive practices in the telecommunications sector by the national PTT monopolies, as is evidenced by the British Telecom decision and the action against the Deutsche Bundespost in respect of modems and cordless telephones.

In the field of telecommunications, all goods and services (including basic services) have at least a potential affect on trade between Member States. The competition laws of the EEC Treaty should therefore serve as the European framework for fair competition in telecommunications. The concurrent application of two or more, possibly conflicting, competition laws in different Member States can create unnecessary handicaps to the expansion of the telecommunications market, and impose administrative burdens on firms in dealing with all the relevant agencies involved.

### **7.1 Thoughts on greater coordination of competition policy between the European Commission and national regulatory bodies**

While recognizing, therefore, the desirability of a single set of principles applicable without discrimination throughout the Community, the EC Committee recognizes that it may be unrealistic to expect the European Commission to undertake the burden of supervision and enforcement unassisted. On the other hand, it is clearly desirable that competition policy in this area should be centrally coordinated, and consistently applied in the different Member States.

To assist the Commission in enforcement, one possible approach might be to establish a framework in which national regulatory agencies (e.g. OFTEL in the UK) would be responsible for the specific application of EC competition laws in the telecommunications sector to undertakings in their territory, and would do so in accordance with principles laid down by the Commission. The Commission would have a supervisory role, but could also have the power, either on its own initiative, or at the request of one of the parties involved, to 'call-in' specific cases (e.g. an agreement involving undertakings in several Member States). Such a framework could serve to resolve inconsistencies in the application of competition law among Member States. Further consideration would have to be given to procedural aspects (e.g. rights of appeal) but these would appear to be solvable.

The concept of the application of EC competition law by national agencies is not unusual. Article 88 of the EEC Treaty envisages the application by national authorities, and Article 89 provides for their *cooperation* and *assistance*. The possibility of parallel application of EC competition law by competent national authorities is also expressly envisaged in Article 9(3) of Council Regulation 17 of 1962, which is the base regulation concerning EC competition procedures.

Of course, there may well be several legal or administrative methods (such as directives under Article 90) that would no less effectively meet the twin objectives of consistent application and effective enforcement of EC competition policy in the field of telecommunications. The EC Committee's objective at this stage is merely to draw attention to what seems to it to be an important issue, and perhaps to contribute to the debate.

The EC Committee expects to contribute further to the debate with additional comments on the formulation and application of competition policy in the European telecommunications markets.

## 8.0 The external dimension of a Community telecommunications policy

### 8.1 Trade in Services under GATT

The EC Committee agrees with the Commission that telecommunications services are likely to be discussed during the trade in services negotiations conducted under the auspices of the Uruguay Round of GATT negotiations. It is unclear to the EC Committee, however, which telecommunications services the Commission would recommend for inclusion in a GATT agreement on trade in telecommunications services. The EC Committee agrees with the Commission that *'An agreement on what constitutes tradeability will therefore be an essential element in the negotiations'* (p. 151) and believes, therefore, that not all telecommunications services are appropriately covered in the context of trade negotiations. Trade negotiators should understand how telecommunications services are provided between countries, how they are utilized for trade in other products and services, and then determine the most productive way in which to address telecommunications issues during trade negotiations.

Trade negotiators need to recognize the central importance of telecommunications services for all service companies wishing to provide their particular services between and within other countries. Because all service firms rely on telecommunications services to manage their operations and/or to deliver their service products to customers, they share an interest in maintaining reasonable, liberal access to and use of public telecommunications services. This general need for *access to and use of public telecommunications services on reasonable terms and conditions no less favorable than domestic equivalents* should be addressed in a general framework agreement for trade in services.

Because jointly-provided, basic international telecommunications services are provided through cooperative arrangements between the telecommunications carriers and/or administrations of each country, it is very difficult to envisage how trade principles would be applicable to them. In general, telecommunications administrations and carriers do not wish to provide basic transport services within other countries: i.e. they do not desire market access with respect to such services. Their inclusion in multilateral trade negotiations could, therefore, present negotiators with overwhelming difficulties, as well as serve to obscure the more essential objectives of *access to and use of telecommunications services*.

The ability to compete in the provision of value-added telecommunications services raises additional types of issues. The EC Committee believes that such issues would best be resolved in sub-negotiations on a sector-specific agreement for trade in value-added services. Existing GATT principles do not address these requirements fully, but they must be met for trade in value-added services to develop its full potential.

Some important requirements to compete internationally in value-added services are:

- *Fair market access*: Removal of tariff and non-tariff barriers which limit the ability of foreign firms to offer services in national markets.

- *Non-discrimination*: Non-discriminatory market access for non-local firms (national treatment)
- *Transparency*: Simple, clearly-defined market entry requirements or licensing procedures, if any.
- *Publicly sanctioned monopolies*: Assuring a monopoly or cartel does not have the effect of restricting services trade.
- *Unrestricted movement of information*: Principles to govern restrictions on the nature, content or volume of information both within and between countries.
- *Access to and use of public telecommunications services*: Effective access to a range of public telecommunications services between and within countries on reasonable terms and conditions.
- *Standards code*: Any technical requirements consistent with the GATT standards code, i.e., such requirements should not significantly increase the cost or time for obtaining approvals and should be limited to valid domestic purposes such as preventing harm to individuals or networks.
- *Government procurement code*: The existing code on government procurement should be expanded to include telecommunications products and services.
- *Safeguards*: A code designed to address trade in value-added services must provide safeguards to ensure that when the network infrastructure is provided exclusively by a single operator, it does not enjoy advantages in competition with other value-added services providers, for example through cross-subsidization or unequal access to the network infrastructure.

## 8.2 Regulations by WATTC

The Green Paper makes several references to WATTC and correctly notes the potential of the new international telecommunications regulations that will be produced by the WATTC in November 1988 to limit the scope for agreements which may be negotiated within the GATT framework.

The CCITT committee charged with preparing the draft international telecommunications regulations which will be considered by the WATTC has completed its work. It is a matter of great concern that the draft regulations it has produced are capable of being applied in a way which can impose restrictions on any type of international telecommunications service, provided by any entity.

The definition of international telecommunications service contained in the draft regulations is very wide indeed, and the option to require any service to comply with CCITT Recommendations can limit the range of services that may be offered and is against the spirit of openness in the provision of non-reserved services contained in the Green Paper. Moreover, the draft regulations were produced without the agreement of the delegations of all members of the Community; it is also noteworthy that the delegations from all countries which had more liberal regulatory regimes and which also included user representation did express severe reservations on the draft regulations.

The new international telecommunications regulations will apply to ITU members, and will thus affect both intra-Community and extra-Community telecommunications. While a liberal interpretation of the new regulations could be applied within the Community, it will be in the interests of the European information and telecommunications services industry, which must be able to export its services, for the international telecommunications regulations to be minimal and framed in a way that will not enable a restrictive interpretation.

The European members of the ITU, working together and presenting a common position, have the ability to bring considerable influence to bear on the outcome of the WATTC. It is unfortunate that the monopoly views and interests of the individual telecommunications administrations and operators rather than those of the competitive service providers, the users, and the Community, may have played a disproportionate part in developing the present draft regulations. This must be corrected, but time is short and the Commission is urged to take action to facilitate the development of a common position by all member states with the active participation of all concerned parties. The Green Paper indicates that the view of member states and administrations has changed or is changing and it appears unlikely that the present draft international telecommunications regulations for the WATTC would have been produced if the process had started today.

## 9.0 Free flow of information

The development of the telecommunications market in the Community will in part be driven by the supply of and demand for services which use telecommunications, in particular those providing information. The development of these products and services requires, however, a clear legal framework in which the activity of compilation and dissemination of information is appropriately protected from unfair competition, whilst at the same time recognizing the interests of all Community citizens in unrestricted access to mankind's cultural and scientific heritage. It is arguable that the laws affording protection for intellectual property in various Member States may no longer be appropriate to maintaining this balance.

The EC Committee understands that this is an issue which may be addressed in the forthcoming Commission Green Paper on copyright. It would merely comment here that telecommunications provide, in the final analysis, only a means to transmit information from one place or person to another, and the demand for that facility is ultimately dependent on the varieties of information that some people supply and others want. While there should be no restrictions on the provision of a variety of information, the protection of individuals' privacy, of intellectual property, of public health and safety, and of national security have to be recognized. In this respect, we are supportive of the Council ratification of the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

## 10.0 Social and Economic impact considerations

The EC Committee agrees that the social impact of restructuring and establishing a new telecommunications industry structure will be considerable.

It must be recognized that, as with all major changes, a transitory negative impact may be experienced. We look to the Commission for their plans on minimizing individual and enterprise hardship during the transition period. The EC Committee looks forward to the opportunity to comment on further discussion documents from the Commission addressing how these effects can be minimized while benefits for enterprises and for individuals in the Community can be maximized.

It is possible that the restructuring, due to the penetration of the new electronic technologies into the telecommunications infrastructure, may cause a situation of overmanning. We consider this not a liability but an opportunity for the Commission and the Telecommunications Administrations to provide retraining opportunities to basically skilled staff in order to help offset the expected shortfall of information technology personnel. This will require, both on a national and regional level, considerable allocation of resources and expertise in order to meet individual and functional requirements. We would welcome the Commission's views on how the American Chamber of Commerce can participate and assist in this process.

We believe that there is a huge potential for new services in the medium and small enterprise sector. This potential can be better stimulated by the competitive offering of services. While Telecommunications Administrations can play an important role in this area because of their economies of scale and broad geographic coverage, a clear separation between competitive and reserved activities of the Administrations must be a pre-requisite for their participation in the competitive marketplace.

As the Green Paper states, the financial viability of Telecommunications Administrations should be preserved. To this end, public switched voice telephone service may be reserved for the near term. Provided that there is a clear separation and no improper cross-subsidies between reserved and competitive operations of Telecommunications Administrations, the EC Committee would also support the participation of Administrations in competitive activities. It should be recognized, also, that the offering of competitive services by other companies will stimulate user demand for new types of services, thereby increasing basic underlying transmission demand and improving revenue flows to the Telecommunications Administrations, while at the same time reducing their risks and investment requirements.

The requirement for cross-border provision of services in the Community is well stipulated in the Green Paper. Although clearly stated it should further qualify that no other barriers be erected which restrict the provision of services beyond the Community. This elimination of barriers would help stimulate the export of information technology services outside the Community thereby promoting European technology, know-how and indeed a broader 'European mentality'.

Finally, the EC Committee would like to stress the need to ensure the consistency of other activities and initiatives of the Commission addressing the information services market at large with the objectives and actions stated in the Green Paper. Equally, we encourage Commission initiatives which would speed up the development of legal structures and institutional changes more appropriate to the emerging Information World.

## 11.0 Corporate members of the EC Committee

### *Industrial Companies*

Allied Corporation/Bendix Europe  
AT&T  
Avon Products  
Caterpillar Commercial  
Continental Can of Europe  
Digital Equipment  
Dow Chemical Europe  
Dow Corning Europe  
Du Pont de Nemours International  
Exxon Chemical International  
Ford of Europe  
General Motors  
Hewlett Packard  
Honeywell Europe  
IBM Europe  
Johnson Wax Eurocentre  
3M Europe  
Mars  
Merck Sharp & Dohme Europe  
Monsanto Europe  
Morton Thiokol  
Pfizer  
Philip Morris  
Procter & Gamble  
R.J. Reynolds  
Smith Kline & French Laboratories  
UNISYS  
Upjohn  
Union Carbide  
Wang

### *Service Companies*

American Express  
Arthur Andersen  
Baker & McKenzie  
Belmont European Community Law Office  
Continental Bank  
Coopers & Lybrand  
De Bandt, Van Hecke & Lagae  
Morgan Guaranty Trust Company of New York  
Nolst Trenite Houthoff Star Busmann  
Oppenheimer, Wolff & Donnelly  
Nicholas Philips  
Price Waterhouse  
Rycken, Burlion, Bolle & Houben  
Sibbern International  
Van Bael & Bellis

Mr. Michel Carpentier  
Director General  
Telecommunications, Information Industries and Innovation  
Commission of the European Communities  
Rue de la Loi 200  
1049 Brussels, Belgium

Telex: 21877 COMEU B

The EC Committee of the American Chamber of Commerce in Belgium will shortly send you its comments on the Green Paper on the development of the common market for telecommunications services and equipment. These comments will be contained in a position paper which the Telecommunications Working Group of the EC Committee has prepared in the course of the last 4 months. The Group recently invited Dr. Ungerer to attend a meeting in order to give him a general overview of its work in this area.

The EC Committee is the sole organization in Europe representing the views of European companies of American parentage. It also represents the interests of the European Council of American Chambers of Commerce (an association of 13 Amchams throughout Europe) on issues concerning the European Community. The membership of the EC Committee includes over 50 major US corporations representing users, manufacturerers and services providers in the telecommunications sector.

Regards,

Antonio Patron  
Chairman  
Telecommunications Working Group  
EC Committee

cc. Dr. Herbert Ungerer





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De Europese Commissie,  
Tav Directoraat XIII  
De heer T.M. Schuringa  
Jozefstraat II 37  
Brussel

datum	ons kenmerk	uw kenmerk	onderwerp
20.1.1988	JE/88/111		evaluatie Green Paper

Geachte Dames en Heren,

De Amsterdamse Raad voor Informatica en Telecommunicatie heeft kennisgenomen van het document "Presentation of the Green Paper on Telecommunications" uitgegeven door de Commission of the European Communities dd 30 juni 1987.

De richtlijnen hebben in hoofdzaak betrekking op de hierna volgende punten, te weten:

1. De primaire taak van de PTT's dient gericht te zijn op de transportfunctie binnen het gebied van de telecommunicatie (infrastructuur);
2. Richtlijnen op het gebied van de standaardisatie dienen in internationaal verband te worden vastgelegd, waartoe de oprichting van een European Standardization Institute wordt aanbevolen;
3. Diensten op het gebied van de Value Added Network Services dienen op basis van vrijheid door aanbieders van deze diensten geboden te kunnen worden in een marktgerichte omgeving waaraan de PTT's op voet van gelijkwaardigheid deel zouden kunnen nemen;
4. Aan de leveranciers van hardware en software dienen geen beperkingen te worden opgelegd anders dan uit hoofde van richtlijnen op het gebied van de standaardisatie.

#### I. ALGEMEEN

De Raad heeft gemeend op het document een reactie te moeten formuleren, die zij u hierbij voorlegt.

In haar reactie heeft de Raad zich laten leiden door "kader 2" van het Groenboek, waarin de voorgestelde standpunten puntgewijs worden opgesomd. De Raad is op alle voorstellen kort ingegaan.

Vervolgens heeft de Raad een aantal onderwerpen opgevoerd, die zij node gemist heeft in het Groenboek.

Tenslotte heeft de Raad besloten, naast haar commentaar op het Groenboek zelf, nog enige specifieke Amsterdamse accenten aan te brengen.

# AMSTERDAMSE RAAD VOOR INFORMATICA EN TELECOMMUNICATIE

## COMMENTAAR

- A. Handhaving van het principe dat de telecommunicatieadministraties exclusieve of speciale rechten hebben met betrekking tot het aanbieden en de exploitatie van de netwerkinfrastructuur. Als een Lid-Staat voor het gehele netwerk of voor bepaalde delen daarvan een liberaler stelsel verkiest, dient de integriteit van de algemene netwerkinfrastructuur op korte en lange termijn gewaarborgd zijn.

Een beperkt aanbod van concurrerende satellietcommunicatiesystemen met tweerichtingsverkeer vereist verdere analyse. Per geval zou goedkeuring moeten worden verleend als dat nodig is voor de ontwikkeling van diensten op Europese schaal, en als de financiële draagkracht van de hoofdaanbieder(s) hierdoor niet geschaad wordt.

### Ad A.:

De Amsterdamse Raad voor Informatica en Telecommunicatie wijst erop, dat vrije mededinging in de openbare infrastructuur zal kunnen leiden tot stimulering van grotere efficiency in het beheer van het net en tot verbetering in het openstaan voor de wensen van de gebruikers van het openbare net.

De Raad heeft echter geen bezwaar tegen het vooralsnog op nationaal niveau handhaven van exclusieve en speciale rechten voor het beheer van de bestaande openbare infrastructuur, indien en voorzover deze term beperkt wordt gedefinieerd tot het fysieke net, de directe overdracht van signalen en de schakelfuncties, en daarmee niet de functies worden bedoeld die het beste in vrije mededinging kunnen worden geboden.

Bij de ontwikkeling van nieuwe technologie met betrekking tot de infrastructuur dient steeds opnieuw bezien te worden of het creëren van een monopolie-positie gerechtvaardigd is.

- B. Handhaving van het principe dat de telecommunicatieadministraties exclusieve of speciale rechten hebben met betrekking tot het aanbieden van een beperkt aantal basisdiensten, voor zover deze exclusieve rechten in dit stadium essentieel worden geacht om de taak als openbare dienst naar behoren te vervullen.

Dit beginsel van exclusieve dienstverlening moet in enge zin worden opgevat en regelmatig opnieuw in overweging worden genomen, om rekening te houden met de technologische ontwikkelingen en in het bijzonder de ontwikkeling naar een digitale infrastructuur. Er mogen geen "gereserveerde diensten" worden gedefinieerd waardoor het monopolie wordt uitgebreid op een wijze die in strijd is met het Verdrag. De enige dienst die hiervoor op dit ogenblik op het eerste gezicht in aanmerking lijkt te komen, is, gezien de algemene opvatting in de Gemeenschap, spraaktelefonie.

### Ad B.:

De Raad kan instemmen met het standpunt van de Europese Commissie, dat "de exclusieve en speciale rechten tot het aanbieden van basisdiensten" in enge zin moet worden opgevat en (eveneens) regelmatig opnieuw in overweging moet worden genomen.

# AMSTERDAMSE RAAD VOOR INFORMATICA EN TELECOMMUNICATIE

De Raad is van mening, dat de PTT's alleen moeten worden beschermd tegen concurrentie wanneer zij kunnen aantonen, dat het belang van de gebruikers niet wordt gediend door concurrentie op dat betreffende terrein.

A fortiori geldt deze mening voor basisdiensten. De Raad is van oordeel, dat geen enkele basisdienst voor monopolisering in aanmerking komt. De Raad wijst dan ook een monopolie voor spraaktelefonie principieel af.

Een dergelijk standpunt ten aanzien van basisdiensten ware overigens in alle daarvoor geëigende (Europese) wetten op te nemen. De nieuwe Nederlandse wetgeving kan terzake als voorbeeld dienen.

- C. Vrij aanbod (zonder beperkingen) van alle andere diensten ("concurrerende diensten", met name de "diensten met toegevoegde waarde") binnen de Lid-Staten en tussen de Lid-Staten (in concurrentie met de telecommunicatie-administraties), die door de gebruiker kunnen worden gebruikt voor zijn eigen behoeften, die hij met andere gebruikers deelt, of voor het verlenen van diensten aan derden, onder de voorwaarden voor gebruik van de netwerk-infrastructuur te definiëren onder punt E.

De "concurrerende diensten" zouden alle diensten moeten omvatten behalve de basisdiensten die expliciet aan de telecommunicatieadministraties zijn voorbehouden (zie B).

#### Ad C.:

Met de Commissie is de Raad van oordeel, dat alle diensten, die niet bij regelmatige toetsing (nog) strikt gerechtvaardigd blijken te zijn voorbehouden aan de PTT's, onder vrije mededinging moeten kunnen worden aangeboden.

Dit principe moet een basis vinden in de algemene telecommunicatie-wetgeving, opdat de te signaleren neiging van de PTT's om ook op niet-gereguleerde aspecten invloed uit te oefenen, vide de voorwaarden die sommige PTT's stellen aan leveranciers van informatiediensten, kan worden tegengegaan.

- D. Strikte eisen in verband met de normen voor de netwerkinfrastructuur en de diensten die worden aangeboden door de telecommunicatieadministraties of door aanbieders van diensten van vergelijkbaar belang, om interoperabiliteit op Europese schaal te handhaven of tot stand te brengen. Bij deze eisen dient vooral te worden uitgegaan van Richtlijnen 83/189/EEG en 86/361/EEG en Aanbeveling 86/659/EEG. De Lid-Staten en de Gemeenschap dienen ervoor te zorgen dat de telecommunicatieadministraties efficiënte communicatie op Europese en wereldschaal aanbieden en dienen dit aanbod te stimuleren. Dit geldt vooral voor diensten (al dan niet gereserveerde diensten), waarvoor is aanbevolen om ze op Gemeenschapsniveau aan te bieden, zoals de in Aanbeveling 86/659/EEG omschreven diensten.

#### Ad D.:

De eerder genomen EEG-besluiten, waarbij werd voorgesteld dat Lid-Staten een uitgebreid menu aan standaard diensten op Europese schaal door de PTT's moeten waarborgen, of hier al of niet vraag naar is, zouden de PTT's kunnen afhouden van hun essentiële infrastructurele verlichtingen.

# AMSTERDAMSE RAAD VOOR INFORMATICA EN TELECOMMUNICATIE

De Raad onderstreept hierbij opnieuw de mening, dat de standaardisatie op basis-infrastructureel niveau tot de primaire verantwoordelijkheid van de PTT's behoort. Van deze verantwoordelijk mag echter geen standaardisatie van het dienstenpakket worden afgeleid.

Nel mag van de PTT's verwacht worden, dat zij voortdurend onderzoek plegen naar de omvang van de vraag naar aangeboden en nog aan te bieden diensten, opdat de infrastructuur steeds in staat is die diensten, waaraan de behoefte is gebleken, optimaal door te geven.

- E. Duidelijke omschrijving, door middel van een richtlijn van de Gemeenschap, van de algemene eisen voor het gebruik van het netwerk, die door de telecommunicatieadministraties worden gesteld aan de aanbieders van concurrerende diensten.

Hierdoor dienen ook duidelijke verplichtingen op het gebied van aansluiting en toegang te vallen, die door de telecommunicatieadministraties worden opgelegd aan de aanbieders van grensoverschrijdende diensten, om de kans op inbreuken op het Verdrag zo klein mogelijk te maken

Er dient overeenstemming te worden bereikt over de normen, frequenties en tariefbeginselen, teneinde de algemene voorwaarden te omschrijven, waaraan de dienstverlening in de concurrerende sector onderworpen is.

De details van deze richtlijn inzake het aanbieden van een open netwerk aan gebruikers en aanbieders van diensten (Open Network Provision, "ONP") dienen te worden opgesteld in overleg met de Lid-Staten, de telecommunicatieadministraties en de andere betrokkenen in het kader van de groep van hoge ambtenaren voor telecommunicatie (SOG-T).

Ad E.:

De Raad onderschrijft het fundamentele belang van een Open Network Provision: een open netwerk is absoluut noodzakelijk opdat alle betrokkenen hierop toegang hebben. Hierop mag niet worden afgedongen.

Absolute open toegang tot de openbare infrastructuur op gelijke voorwaarden en tegen tarieven volgens het kostprijnsbeginsel is essentieel voor de ontwikkeling van telecommunicatiediensten in vrije mededinging.

Het resultaat van richtlijnen van de EEG moet dan ook zijn, dat wettelijk wordt vastgelegd dat de regels die gesteld worden aan informatieleveranciers alleen dan gerechtvaardigd zijn, indien en voorzover deze noodzakelijk zijn, gezien vanuit een oogpunt van een correct functioneren van het netwerk als zodanig.

- F. Vrij aanbod (zonder beperkingen) van randapparatuur in de Lid-Staten en tussen de Lid-Staten (concurrerend met de telecommunicatieadministraties), onder voorbehoud van type- of modelgoedkeuring volgens procedures die in overeenstemming zijn met het Verdrag en de bestaande richtlijnen. Eventueel kan voor de levering van het eerste conventionele telefoontoestel tijdelijk een uitzondering worden gemaakt wat dit vrije aanbod zonder beperkingen betreft.

# AMSTERDAMSE RAAD VOOR INFORMATICA EN TELECOMMUNICATIE

De uitsluitend voor ontvangst bestemde grondstations (Receive Only Earth Station - ROES) voor satellietverbindingen dienen te worden gelijkgesteld aan terminals, zodat zij slechts aan één goedkeuringsprocedure behoeven te worden onderworpen.

## Ad F.:

De Raad is van oordeel dat zowel digitale als analoge apparatuur voor aansluiting aan het openbaar net (de zgn. network terminating equipment) in vrije mededinging moet kunnen worden aangeboden.

De Raad ondersteunt volledig de doelstelling van de Europese Commissie om tot een volledig vrije markt voor randapparatuur te komen.

Het beginsel moet volgens de Raad zijn:

- centraal staat de zgn common carrier met een speciaal regime;
- al hetgeen daar buiten staat is per definitie vrij (dus ook: het eerste telefoontoestel, de zgn. ROES en het zendende Earthstation).

Uiteraard, en hierover wil de Raad geen misverstand doen ontstaan, is een beheersfunctie van het frequentie-spectrum in de ether noodzakelijk.

- G. De activiteiten van de telecommunicatieadministraties op het gebied van regelgeving en exploitatie dienen van elkaar te worden gescheiden. De regelgeving heeft onder meer betrekking op het verlenen van vergunningen, controle van typegoedkeuringen en interface-specificaties, toewijzing van frequenties en algemene controle op de eisen die aan het gebruik van het netwerk worden gesteld.

## Ad G.:

Met de Commissie is de Raad van mening, dat het essentieel is, dat de operationele en regelgevende activiteiten van de PTT's gescheiden dienen te worden. De regelgevende instantie dient werkelijk onafhankelijk te zijn van de operationele activiteiten van de PTT's en dient alleen regelgevende aspecten te bevatten (zie B.).

- H. Nauwgezette permanente controle van de commerciële exploitatieactiviteiten van de telecommunicatieadministraties overeenkomstig artikel 85, 86 en 90 van het EEG-Verdrag. Dit geldt vooral voor de subsidiëring van activiteiten in de sector concurrerende diensten en van produktieactiviteiten.

## Ad H.:

Het duidelijke standpunt van de Europese Commissie betreffende de wijze waarop de PTT's zich dienen te gedragen is bemoedigend.

Wel is de Raad van mening, dat de Commissie de door haar genoemde artikelen nader moet uitwerken en met name richtlijnen moet geven aangaande het voorkomen van kruissubsidies en andere oneerlijke concurrentie door PTT's, zolang deze speciale rechten genieten en gebruik kunnen maken van "exclusieve dienstverlening".

# AMSTERDAMSE RAAD VOOR INFORMATICA EN TELECOMMUNICATIE

- I. Nauwgezette permanente controle van alle particuliere aanbieders van diensten in de voor concurrentie opengestelde sectoren, overeenkomstig artikel 85 en 86, om misbruik van machtposities te vermijden.

Ad I.:

Dit voorstel behoort overbodig te zijn. De normale toepassing van de algemene "concurrentie-regels" van het Verdrag richt zich reeds tegen misbruik van machtposities, die niet gegarandeerd zijn door wettelijke monopolies.

- J. Toepassing van het gemeenschappelijk handelsbeleid op telecommunicatie. Kennisgeving door de telecommunicatieadministraties, uit hoofde van Verordening nr. 1762, van alle onderling of met derde landen gesloten overeenkomsten die gevolgen kunnen hebben voor de concurrentie in de Gemeenschap. Verstrekking van inlichtingen, voor zover door de Gemeenschap gewenst, ten einde een samenhangend Gemeenschapsstandpunt te bewerkstelligen voor GATT-onderhandelingen en relaties met derde landen.

Ad J.:

De ontwikkeling van een gemeenschappelijk commercieel beleid zal de doelstelling van de Commissie op het gebied van internationale vrije mededinging in de volgende GATT-besprekingen bevorderen.

Het zal handelsbarrières op het gebied van telecommunicatiediensten kunnen verminderen.

Tevens zal hiermee het risico kunnen worden beperkt, dat de ITU WATTC (International Telecommunications Union - World Administrations for Telephone and Telegraph Conference) in 1988 regelgeving met zich brengt, die naar verdere beperkingen aangaande vrije concurrentie van internationale telecommunicatiediensten tendeert.

De Amsterdamse Raad voor Informatica en Telecommunicatie heeft op dit moment de stellige indruk, dat wanneer niet wordt ingegrepen, bijv. door de Europese Commissie, daar juist zeer beperkende afspraken gemaakt zullen kunnen worden.

### III. VERDERE EVALUATIE

Aan de in het Groenboek vermelde voorstellen en aanbevelingen dienen volgens de Raad de volgende kanttekeningen te worden toegevoegd op grond van het feit, dat volgens haar aan een aantal essentialia is voorbijgegaan, c.q. aan een aantal juist voor de Amsterdamse regio belangrijke zaken geen aandacht is besteed:

- a. Gemist wordt een voorstel ten aanzien van de TV-kabelproblematiek. Juist de mogelijkheid om kabelnetten in de toekomst beter te benutten is voor de Amsterdamse regio, gezien de zeer grote penetratie-graad van dezenetwerken van groot belang, omdat hier een groot toepassingsveld wordt gezien voor nieuwe informatietechnologie;
- b. Gemist wordt een voorstel om door middel van met de nationale PTT op te zetten joint-venture een aantal nieuwe ontwikkelingen te doen starten, die vooralsnog door de huidige (verouderde) wetgeving kan worden belet;
- c. Gemist wordt een richtlijn voor het reguleren van de tarieven volgens het kostprijs-beginsel;

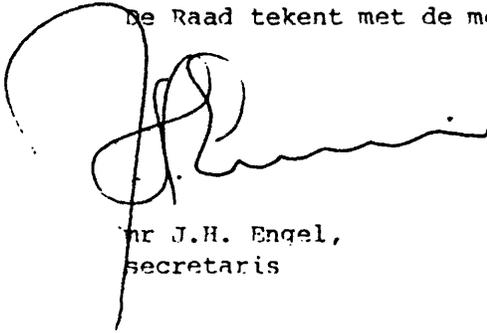
1. Genist wordt een voorstel aangaande de rechtsbescherming van de gebruiker evenals een regeling om de aansprakelijkheid van de concessionaris;
- e. Genist wordt een standpunt van de Commissie t.a.v. die gevallen, waar de verschillende PTT's niet tijdig en/of niet tegen redelijke voorwaarden in staat zijn te leveren ("Het convenieert ons op dit moment niet");
- f. Genist wordt een richtlijn voor die gevallen, waar een nieuwe (nationale) telecommunicatie-wetgeving in strijd komt met reeds eerder door gebruikers verworven rechten.

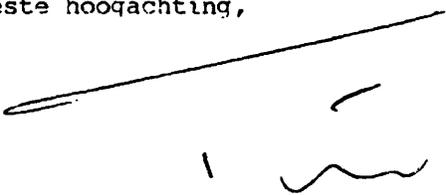
#### IV. AANBEVELINGEN

1. De Raad spreekt haar grote waardering uit voor de wijze waarop de Europese Commissie haar voorstellen heeft geformuleerd;
2. De Raad wijst erop, dat het noodzakelijk is om een andere overleg-structuur te organiseren dan traditioneel bestaat om de doelstellingen van het Groenboek te (doen) realiseren;
3. De Raad is van oordeel dat in de regio Amsterdam de voorstellen bij uitstek op hun waarde kunnen worden getoetst;
4. De Raad wijst erop, dat in een regio zoals bv Amsterdam speciale wensen en behoeften kunnen bestaan, m.n. op het gebied van de infrastructuur; zij meent dat het echter van nationaal belang is om een nationale PTT in staat te stellen in deze regio tijdig en tegen redelijke voorwaarden te leveren;
5. De Raad wijst hierbij op het feit, dat in de regio Amsterdam thans joint-ventures met de nationale PTT-T worden beproefd (vide o.a. Teleport Amsterdam);
6. De Raad biedt hierbij aan om in de regio Amsterdam - begeleid door het Directoraat VIII - op zodanige wijze een gebruikersinbreng te ontwikkelen, dat tot een werkelijk Open Network Provision-situatie gekomen kan worden in de vorm van expertise, gegeven zijn huidige reeds functionerende organisatie-structuur.

De Raad stelt het zeer op prijs op de door U voorgeschreven wijze in de gelegenheid gesteld te zijn van haar gevoelens, ter zake van de ontwikkelingen van de telecommunicatie in Europa, blijk te geven.

De Raad tekent met de meeste hoogachting,

  
Mr J.H. Engel,  
secretaris

  
F.H.P. Trip,  
voorzitter



POSITIONS ET COMMENTAIRES DE BELTUG  
SUR LE "GREEN PAPER" DE LA CCE RELATIF AU DEVELOPPEMENT  
DU MARCHE COMMUN POUR LES EQUIPEMENTS ET  
SERVICES DE TELECOMMUNICATION.

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BELTUG (Belgian Telecommunication Users Group) représente un grand nombre d'utilisateurs professionnels de télécommunications en Belgique. BELTUG a analysé le "Green Paper" de la Commission des Communautés Européennes sur le développement du marché commun des équipements et services de télécommunication.

Dans l'ensemble, nous apprécions l'initiative de la Commission et approuvons largement l'idée générale du document, encourageant la concurrence, l'ouverture des réseaux et l'indépendance des organismes de réglementation.

Ci-dessous, nos commentaires plus détaillés sur les 10 propositions du tableau 13 du rapport de la CCE.

A) CCE;

Acceptation du maintien du principe de l'exclusivité ou de droits spéciaux des administrations des télécommunications en ce qui concerne l'offre et l'exploitation de l'infrastructure de réseau. Lorsqu'un Etat membre choisit un régime plus libéral, pour l'ensemble ou pour certaines parties du réseau, l'intégrité à court et à long terme de l'infrastructure du réseau général doit être sauvegardée.

L'offre concurrentielle, strictement encadrée, limitée, de systèmes de communications bi-directionnelles par satellite demandera une analyse plus fouillée. Elle devrait être autorisée cas par cas lorsque cela est nécessaire pour développer des services à l'échelle Européenne, et lorsque cela ne met pas en jeu la viabilité financière de (des) prestataire(s) principal(aux).

Une conception et une définition communes concernant la mise à disposition de l'infrastructure devraient être atteintes dans le cadre du point E) ci-dessous.

BELTUG

Les utilisateurs peuvent admettre que, à court terme, les Administrations des télécommunications continuent à pourvoir et à assurer l'exploitation des infrastructures de base des réseaux. Ce droit devrait cependant être sujet à révision et une concurrence en la matière devrait être retenue dans le futur.

Les nouvelles techniques, qui ne requièrent pas de câblage dans le domaine public, telles que les systèmes de communications bi-directionnelles par satellite et les liaisons par ondes courtes, devraient être progressivement retirées de la notion d'infrastructure de base.

BELTUG voudrait aussi souligner ici la position exceptionnelle de la Belgique avec la densité élevée de son réseau de télédistribution par câble prêt à être exploité à d'autres fins. Cet énorme potentiel devrait être ouvert à de nouvelles applications, offrant ainsi à l'industrie belge l'occasion de se positionner dans ce domaine de pointe.

B) CCE.

Acceptation du maintien du principe de l'exclusivité ou des droits spéciaux des administrations des télécommunications pour la prestation d'un nombre limité de services de base, dans le cas où cette exclusivité est considérée comme essentielle, à ce stade, à la sauvegarde de la mission du service public.

Le principe de prestation exclusive doit être interprété de façon étroite et doit être susceptible d'une révision à intervalle régulier, en tenant compte du développement technologique et notamment de l'évolution vers une infrastructure numérique. La définition des "services réservés" ne peut étendre le monopole de façon incompatible avec le Traité. Actuellement, et compte tenu de la conception générale de la Communauté, il semble, à première vue, que le service téléphonique vocal soit le seul service susceptible d'être choisi.

BELTUG

Nous sommes d'accord avec une interprétation étroite du terme "services de base" et considérons que le service téléphonique commuté est en effet le seul domaine où les Administrations des télécommunications peuvent conserver temporairement des droits exclusifs. Comme au point précédent, les utilisateurs estiment que cette situation doit pouvoir être sujette à révision. Notre position est que l'intérêt général est mieux servi par une libre concurrence que par des droits spéciaux et exclusifs. Les services à valeur ajoutée dans le "traitement vocal" ne doivent pas être inclus dans les services de base.

C) CCE.

Offre libre (sans restriction) de tous les autres services ("services concurrentiels" y compris notamment les "services à valeur ajoutée"), au sein des Etats membres et entre les Etats membres (en concurrence avec les Administrations des télécommunications), destinés à un usage par l'utilisateur pour ses propres besoins, pour des besoins partagés avec d'autres utilisateurs, ou pour la prestation de services à des tiers, soumise aux conditions d'utilisation de l'infrastructure du réseau à définir dans le cadre du point E).

Les "services concurrentiels" couvriraient tous les services, à l'exception des services de base réservés explicitement aux administrations des télécommunications (voir B).

BELTUG.

Les utilisateurs sont d'accord pour une offre libre et sans restriction des "services à valeur ajoutée". C'est par l'usage de ces possibilités que de nouvelles applications commerciales s'ouvriront et que la productivité de celles existantes pourra s'accroître. Cette situation bénéficiera aux usagers belges et offrira la possibilité à nos industries d'élargir leur marché.

La libre concurrence dans les services à valeur ajoutée dépend fortement des principes de tarification retenus par les Administrations des télécommunications pour l'infrastructure de base et des possibilités d'accès à celle-ci, en particulier si ces Administrations désirent entrer dans le marché des services concurrentiels. Les recommandations formulées au point E) concernent également cette question.

D) CCE.

Exigences strictes concernant les normes régissant l'infrastructure de réseau et les services offerts par les administrations des télécommunications ou par des prestataires de services d'importance comparable, afin de sauvegarder ou de créer l'interconnectivité à l'échelle européenne. Ces exigences doivent s'appuyer en particulier sur les directives 83/189/CEE et 83/361/CEE, la décision 87/95/CEE et la recommandation 86/659/CEE.

Les Etats membres et la Communauté devraient assurer et promouvoir l'offre par les administrations des télécommunications, de communications efficaces à l'échelle européenne et mondiale, notamment en ce qui concerne les services (réservés ou non réservés) dont l'offre à une échelle communautaire a été recommandée, tels que les services définis dans la recommandation 86/659/CEE.

BELTUG.

Les services offerts par les réseaux, au sens large du terme, doivent être transfrontaliers et bâtis sur des standards internationaux, afin de préserver l'usage d'équipements et d'interfaces standardisés.

Une participation plus large des utilisateurs dans le processus de préparation et d'agrément de standards est proposée. Cela aiderait la démarche de standardisation actuellement freinée par des protectionismes nationaux, des obstructions, des longs délais et des compromis complexes.

Le support actif des standards internationaux existants devrait préserver un champ libre permettant le développement créatif de produits nouveaux et de futures normes.

./..

E) CCE;

Définition claire, par le truchement d'une directive communautaire, des exigences générales pour l'utilisation du réseau, imposée par les administrations des télécommunications aux prestataires de services concurrentiels, incluant des définitions concernant la mise à disposition de l'infrastructure du réseau.

Ceci doit comporter des obligations claires d'interconnexion et d'accès imposées par les administrations des télécommunications en faveur des prestataires de services transfrontaliers afin de réduire les infractions au traité.

Un consensus est nécessaire sur les normes, les fréquences et les principes de tarification pour définir les conditions générales imposées au secteur concurrentiel en ce qui concerne la prestation de services. Les détails de cette directive concernant l'offre d'un réseau ouvert aux utilisateurs et prestataires de services (Open Network Provision/"O N P") devraient être préparés en concertation avec les Etats membres, les administrations des télécommunications et les autres parties concernées, dans la cadre de groupes de hauts fonctionnaires sur les télécommunications (SOG-T).

BELTUG:

Les utilisateurs sont entièrement d'accord pour une publication rapide et précise des définitions et conditions sous lesquelles l'infrastructure de base peut être utilisée par les fournisseurs de services. Celles-ci doivent être élaborées par un organisme international de normalisation représentant toutes les parties intéressées.

La représentation Belge à cet organisme doit comporter des membres de toutes les parties concernées, y compris les utilisateurs et les fournisseurs de services.

La politique de tarification doit faire l'objet d'une attention particulière. Les tarifs doivent refléter fidèlement les coûts réels, éliminer les subventions croisées et artificielles, de même que les considérations extérieures aux coûts (ex. la tarification au volume sur ligne louée).

La tarification d'une ressource déterminée doit être indépendante de l'utilisation particulière qui en est faite, que ce soit par la voix, les données, le transfert d'image....

F) CCE.

Offre libre (sans restriction) d'équipements terminaux, dans les Etats membres et entre les Etats membres (en concurrence avec les administrations des télécommunications), sous réserve des procédures d'homologation et d'agrément conformes aux obligations du Traité et aux directives existantes. Le fourniture du premier combiné téléphonique conventionnel pourrait être temporairement exclue de l'offre concurrentielle sans restriction.

Les stations terriennes de réception (Receive Only Earth Stations - ROES) pour les liaisons par satellite descendantes devraient être assimilées aux terminaux et soumises uniquement à une procédure d'agrément.

BELTUG.

Les utilisateurs sont pleinement d'accord sur une offre libre et en concurrence d'équipements terminaux.

L'agrément par un laboratoire reconnu et indépendant devrait suffire à permettre l'installation dans tous les Etats membres de la CEE.

Nous ne voyons aucune raison d'agrément de quelle nature que ce soit des stations terriennes de réception (Receive Only Earth Stations - ROES), vu que celles-ci ne comportent aucun lien physique à un réseau.

G) CCE.

Séparation des activités de réglementation et d'exploitation des administrations des télécommunications. Les activités réglementaires concernent particulièrement l'attribution des licences, le contrôle de l'agrément et des spécifications des interfaces, l'attribution des fréquences, et la surveillance générale des conditions d'utilisation du réseau;

BELTUG.

Il est essentiel aux yeux des organisations d'utilisateurs que les activités de réglementation deviennent du ressort d'une organisation indépendante, sans aucun lien avec les Administrations des télécommunications, ni aucune forme de contrôle de celles-ci.

H) CCE.

Suivi strict et continu des activités d'exploitation des administrations des télécommunications, conformément aux articles 85, 86 et 90 du Traité CEE. Ceci s'applique tout particulièrement aux pratiques de subvention croisée des activités dans le secteur des services concurrentiels et des activités de production;

BELTUG.

Nous sommes d'accord. Les administrations des télécommunications doivent satisfaire aux réglementations de la CEE, comme toute autre entreprise commerciale.

I) CCE.

Suivi strict et continu de tous les prestataires privés dans les secteurs nouvellement ouverts à la concurrence, conformément aux articles 85 et 86, afin d'éviter l'abus de positions dominantes.

BELTUG.

Nous sommes d'accord que tout abus possible de positions dominantes doit faire l'objet d'un suivi strict et continu.

J) CCE.

Applications aux télécommunications de la position commerciale commune de la Communauté. Notification par les administrations des télécommunications, au titre du règlement 17/62, de tous les accords conclus entre elles ou avec des pays tiers qui peuvent avoir une incidence sur la concurrence dans la Communauté. Communication des informations, dans la mesure requise par la Communauté, afin d'élaborer une position communautaire cohérente pour les négociations du GATT et les relations avec les pays tiers.

BELTUG.

Nous sommes également d'accord avec ce point.  
Cette situation serait certainement améliorée par une représentation plus équilibrée de toutes les parties concernées dans les délégations officielles belges aux instances internationales de télécommunications (ex. CEPT, UIT, CCITT, etc...).

Il y va de l'intérêt de la CEE, qu'à long terme, plus aucune barrière artificielle ne s'oppose aux développements de services efficaces de télécommunication.

En conclusion, BELTUG est favorable à une ouverture coordonnée, mais néanmoins radicale, du marché des télécommunications en Belgique et au niveau Européen, où de nouveaux et meilleurs services peuvent être introduits plus rapidement et à meilleur coût qu'actuellement.

BELTUG POSITION AND COMMENTS ON  
THE CEC "GREEN PAPER" ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATIONS SERVICES AND EQUIPMENT

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BELTUG (Belgian Telecommunications Users Group), represents a large community of professional telecommunications users in Belgium. BELTUG has analyzed the Green Paper from the Commission of the European Communities, on the development of the Common Market for Telecommunications Services and Equipment.

In general, we welcome the initiative of the Commission and largely agree with the overall perspective of the document, promoting competition, open networks and independent regulatory organisations.

Here follow more detailed comments on the 10 proposed positions, outlined in figure 13 of the CEC report.

A) CEC :

Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure. Where a Member State chooses a more liberal regime, either for the whole or parts of the network, the short and long term integrity of the general network infrastructure should be safeguarded.

Closely monitored competitive offering of two-way satellite communications systems will need further analysis. It should be allowed on a case-to-case basis, where this is necessary to develop European-wide services and where impact on the financial viability of the main provider(s) is not substantial.

Common understanding and definition regarding infrastructure provision should be worked out under (E) below.

BELTUG :

The users can, in the short run agree the Telecommunications Administrations continue to provide and operate the basic network infrastructure. This right should however be subject to review and the option for future competition should be retained.

New emerging techniques, that do not require cabling in the public domain, such as two-way satellite communications and micro wave links should be progressively excluded from the basic infrastructure.

BELTUG would also like to stress here the exceptional position of the cable-TV in Belgium with a high density network in place, ready to be exploited for other purposes. This enormous potential should be opened for new applications, giving the Belgian industry an opportunity to lead in this field.

B) CEC :

Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision of a limited number of basic services, where exclusive provision is considered essential at this stage for safeguarding public service goals.

Exclusive provision must be narrowly construed and be subject to review within given time intervals, taking account of technological development and particularly the evolution towards a digital infrastructure. "Reserved services" may not be defined so as to extend a Telecommunications Administration service monopoly in a way inconsistent with the Treaty. Currently, given general understanding in the Community, voice telephone service seems to be the only obvious candidate.

BELTUG :

We agree with the narrow interpretation of the term "basic services" and consider public switched telephone services indeed as the only area where the Administrations temporarily might keep an exclusive right. As in the previous point however, the users believe this situation should be subject to review. Our position is that the general interest is better served by opening competition, than by exclusive licences.

Value added services in the "voice handling" area should not be seen as part of the basic services.

C) CEC :

Free (unrestricted) provision of all other services ("competitive services", including in particular "value-added services") within Member States and between Member States (in competition with the Telecommunications Administrations) for own use, shared use, or provision to third parties, subject to the conditions for use of the network infrastructure to be defined under (E).

BELTUG :

The users agree that there should be a free and unrestricted right to provide "value added services". It is through the use of these facilities that new ways of doing business become possible and that increased productivity in existing applications can be achieved. This will benefit the Belgian users and offer opportunities to our industry to operate in a wider market.

Fair competition in value added services depends heavily on Telecommunication Administration pricing policy for the common infrastructure and access facilities, in particular when these Administrations want to enter the competitive service market. The recommendations made under point (E) also address this problem.

D) CEC :

Strict requirements regarding standards for the network infrastructure and services provided by the Telecommunications Administrations or service providers of comparable importance, in order to maintain or create Community-wide inter-operability. These requirements must build in particular on Directives 83/189/EEC and 86/361/EEC, Decision 87/95/EEC and Recommendation 86/659/EEC.

Member States and the Community should ensure and promote provision by the Telecommunications Administrations of efficient European-wide and worldwide communications, in particular regarding those services (be they reserved or competitive) recommended for Community-wide provision, such as according to Recommendation 86/659/EEC.

BELTUG :

Networking services in the broad sense of the term should be available across borders and be based on worldwide international standards, so that standardised equipment and interfaces can be used.

More active participation of the user community in the process of the standards preparation and approval is proposed. This should help the process of standardisation which is presently slowed down by national protectionism, obstructions, long delays, and complex compromise solutions.

The active support of the existing international standards should leave room for creative, new products opening the way to new services and future standards.

E) CEC :

Clear definition by Community Directive of general requirements imposed by Telecommunications Administrations on providers of competitive services for use of the network, including definitions regarding network infrastructure provision.

This must include clear interconnect and access obligations by Telecommunications Administrations for trans-frontier service providers in order to prevent Treaty infringements.

Consensus must be achieved on standards, frequencies, and tariff principles, in order to agree on the general conditions imposed for service provision on the competitive sector. Details of this Directive on Open Network Provision (O N P) should be prepared in consultation with the Member States, the Telecommunications Administrations and the other parties concerned, in the framework of the Senior Officials Group on Telecommunications (SOG-T).

E) CEC : (cont'd)BELTUG :

The users fully agree that there should be a clear and promptly published definition of the conditions under which network infrastructure can be used by service providers. These should be worked out by an international regulatory body representing all interested parties.

The Belgian representation to this regulatory body should represent there the interests of all concerned parties, including users and service providers.

Particular attention must be given to the guidelines on tariff setting. Tariffs should reflect closely actual costs, and eliminate cross-subsidies and artificial, non cost related approaches (e.g. volume based tariffs on leased data lines).

The use of a given facility, for voice, data, image or other purpose should not be relevant to the pricing of this facility.

F) CEC :

Free (unrestricted) provision of terminal equipment within Member States and between Member States (in competition with Telecommunications Administrations), subject to type approval as compatible with Treaty obligations and existing Directives. Provision of the first (conventional) telephone set could be excluded from unrestricted provision on a temporary basis.

Receive Only Earth Stations (ROES) for satellite down-links should be assimilated with terminal equipment and be subject to type approval only.

BELTUG :

The users fully agree that the terminal and end-user equipment market should be open for competition.

Type approval from a recognised, independent laboratory should suffice to allow installation in any EEC country.

For Receive-Only Earth Stations, we see no reason why this should be subject to any kind of approval, since they have no physical attachment to a network.

G) CEC :

Separation of regulatory and operational activities of Telecommunications Administrations. Regulatory activities concern in particular licensing, control of type approval and interface specifications, allocation of frequencies, and general surveillance of network usage conditions.

BELTUG :

It is essential in the eyes of the user organisation that these regulatory activities become the responsibility of an independent body, without any tie with the Telecommunications Administration and not reporting to them.

H) CEC :

Strict continuous review of operational (commercial) activities of Telecommunications Administrations according to Articles 85, 86 and 90, EEC Treaty. This applies in particular to practices of cross-subsidisation of activities in the competitive services sector and of activities in manufacturing.

BELTUG :

We agree, the Telecommunication Administrations should comply with the regulation of the community, as any other commercial organisation.

I) CEC :

Strict continuous review of all private providers in the newly opened sectors according to Articles 85 and 86, in order to avoid the abuse of dominant positions.

BELTUG :

We agree that possible abuses of dominant positions should be under continuous review.

J) CEC :

Full application of the Community's common commercial policy to telecommunications. Notification by Telecommunications Administrations under Regulation 17/62 of all arrangements between them or with Third Countries which may affect competition within the Community. Provision of information to the extent required for the Community, in order to build up a consistent Community position for GATT negotiations and relations with Third Countries.

J) CEC : (cont'd)

BELTUG :

We again agree with this point.

A more balanced representation of all concerned parties in the official Belgian delegations to the International telecommunications organisations (e.g. CEPT, ITU, CCITT, etc..) would certainly improve the situation.

It is in the long term interest of the European community that no artificial barriers be maintained that slow down the development of effective Telecommunications services.

As a conclusion, BELTUG is in favor of an orderly but nevertheless radical and active move to a more open European telecommunications market in Belgium and at the European level, where new and better services can be implemented faster and at lower cost than today.

**COMMENTS FROM BRITISH TELECOM ON THE EUROPEAN COMMISSION'S  
GREEN PAPER ON TELECOMMUNICATIONS**

Introduction

1. British Telecom shares the Commission's view that it is essential to create as far as possible an integrated European market for telecommunications goods and services and that the most appropriate means of achieving this goal would be the introduction of wider competition on a Community-wide scale into those markets. We therefore support the aims and principles set out in the Green Paper. In the following comments we seek not to examine in detail every argument and proposal set out in the Green Paper but rather to draw to the attention of the Commission those aspects of the Green Paper which, in our experience as the major operator in Europe's most liberal telecommunications environment, most merit scrutiny if the objectives of the Green Paper are to be achieved.

2. Whilst we share the Commission's concern that its proposals should be put into effect as quickly as is practicable and that the vested interests of no member state or industrial sector should be allowed to delay the creation of a more integrated European telecommunications market, we feel strongly that it is essential that the Community's eventual policies are properly formulated and

implemented. This will necessitate a great deal of research, thought and analysis, which will inevitably take time. The risk that taking time might detract from momentum of the Commission's initiative must be balanced against the risk that an over-hasty approach to this extremely complex subject might result in ineffective legislative proposals which would squander the opportunity for reform created by the Commission. Even in the United Kingdom, where there was no need to reconcile conflicting national interests, the process of introducing liberalisation into the markets for telecommunications goods and services took almost five years. Whilst we do not necessarily suggest that the Commission's timetable should follow this, we believe that it should be seen as a realistic example of the time which may need to be spent in working from first proposals to completed legislative enactments.

#### The Infrastructure and Telecommunication Services

3. We agree wholeheartedly with the Commission's conclusion that any liberalisation of the telecommunication services market must not jeopardise the integrity of the existing and future telecommunications networks in the Community. The national Telecommunications Administrations (TAs) must remain able to finance the provision of telecommunication services wherever there is reasonable

demand. The member state governments are probably best qualified to determine the circumstances and telecommunications needs of their societies, and the freedom to reserve special infrastructure and service provision rights to the TAs should remain with the member state governments.

Whilst we support this as a general statement of principle, we feel that there are certain issues on which more thought will be necessary.

3.1 It will be necessary to define with some degree of precision and care the scope of telecommunications infrastructure and services for the purposes of the Community policies. Too broad a definition may subject to telecommunications regulation related activities, such as broadcasting, which are not properly thought of as telecommunications. On the other hand too narrow a definition may have the effect of introducing regulatory distortions into commercial decisions. For example, any definition drawn by reference to the technology used or the kind of signal carried (such as, for example, one-way cable television systems) would tend to influence commercial decisions in favour of the unregulated technology. In order to develop properly, the telecommunications markets need to be as free as possible of regulatory distortions and must certainly not be diverted by regulatory pressures,

however inadvertent, into technological and commercial backwaters. To continue the example of cable television, it would be unfortunate indeed if modern interactive systems were to be subject to regulation as telecommunication systems (which they undoubtedly are) but one-way systems were left unregulated. This would tend to encourage market entrants to adopt the older technologies of the one-way systems so as to avoid regulation and would deprive the development of interactive services of an important market impetus.

3.2 Any proposal to create a regulatory distinction between TAs and others in the telecommunications industry will need, as one of its bases, a sound and logical definition of the point at which the TA's public network infrastructure gives way to the user's private equipment. Developments in technology will make it increasingly possible to locate special features in the network or in customers' equipment, and it will be in the interests of both the TA and the user that there should be certainty as to where the network termination point is to be found. Open markets in terminal apparatus and value added services will be impossible if the TAs are able to extend their monopoly of public networks to incorporate terminals and value added systems. Conversely the special rights reserved to the TAs will be significantly diminished if users are permitted to push back the network boundary into

the TA's system.

3.3 Community policies should make it clear that the Commission is not insisting that the TAs must be given special rights with regard to infrastructure and reserved services. Although the Green Paper states that the Commission accepts that member state governments may grant such special rights, this seems to be widely interpreted as a mandatory, rather than permissive, proposal. British Telecom is firmly of the opinion that controlled competition in the provision of both infrastructure and all telecommunication services (including voice telephony, telex and data transmission) is compatible with the obligation of one or more TAs to provide telecommunication services wherever there is reasonable demand. The benefits of such competition are that it stimulates efficiency, gives strong incentives to base prices on costs and generally offers a more effective and equitable alternative to constant regulatory supervision.

4. The Commission's proposals, that privately-provided satellite uplinks should be permitted on a case by case basis, and that receive only earth stations should be treated as ordinary terminal apparatus, cause us great concern. The satellite is as much a part of the infrastructure as cables in the ground. Although

satellites and terrestrial infrastructures have certain differing specialised features, they both perform essentially the same functions of conveying telecommunication signals and should therefore, in our view, be treated in like manner. A particular risk of permitting the private provision of satellite services is that it will introduce regulatory distortions of the kind described in 3.1 above. The capacity of telecommunication satellites is finite, even in theory. It would be a waste of that resource if the existence of more relaxed rules was to divert to satellite a number of services which could with less cost be provided by terrestrial means. The services offered by the TAs at present provide all the functions which privately-provided satellite services could offer. We therefore see no reason to change the existing rules.

#### Tariffs

5. We are concerned about inconsistencies in those sections of the Green Paper dealing with tariff issues. There seem to be three main strands:

- recognition of social goals and a consequent need for tariff flexibility;
- the desirability of moving towards cost-based tariffs;

and

- the aim of moving towards harmonised tariff principles and, perhaps ultimately, to a unified European tariff zone.

These ideas seem to us to exhibit mutual inconsistencies and to give insufficient weight to the diversities which exist among the European TAs at present. Most TAs are state-owned, and outside the United Kingdom they fix their tariffs without regard to the pressures of network competition. All have different financial and commercial objectives (whether set by Government or by market expectations); and different arrangements apply for taxation, accounting and transfer charging between state-owned enterprises. These, added to the different levels of productivity and different geographical factors in each member state, suggest strongly that cost-based tariffs would not be uniform throughout the Community. The imposition of uniform tariffs which are not underlain by uniform costs would cause economic harm rather than benefit.

Moreover, any suggestion that, if tariffs are cost-based, restrictions on competition are needed to enable TAs to finance the provision of essentially unprofitable "social" services ignores other possible methods of financing such

services. Even in a competitive environment such services can for example be financed by direct government subsidy or by requiring the TA's competitors to contribute a fair share.

#### Apparatus and Standards

6. It seems to us self-evident that there should be a Community-wide free market in approved terminal apparatus and that the conditions for obtaining and documenting such approval should be as open as possible. This aspiration must, however, be viewed against the background of the variety of technical specifications of the national telecommunications networks. In that environment perhaps the best which can be expected is that Community rules on the mutual recognition of testing and certification procedures should be followed according to their spirit as well as to the letter. Meanwhile the Community should make all possible progress towards ensuring that services in future are technically compatible among member states and towards writing the NETs which will be needed. In this respect we support the proposals of CEPT for the creation of a European Telecommunications Standards Institute.

..  
It is vital that there should not be rival standards bodies and that European standards should not isolate Community manufacturers from world markets.

Separating the Commercial and Regulatory Activities of TAs

7. We agree that the separation of the regulatory and operational functions of the TAs will be essential to the establishment and administration of truly competitive telecommunications markets in the member states. However, great care must be taken to ensure that this separation is accomplished properly and that the body entrusted with the national regulatory authority is not biased towards indigenous enterprises, particularly the TA from which it was created. There may be merit in the Commission's setting out the basic functions of a national regulatory authority and some basic criteria which it is to apply in the discharge of those functions.

Application of the Competition Rules of the Treaty of Rome

8. We accept that the relevant provisions of the Treaty should be fully applied to both public and private suppliers of telecommunications equipment and providers of telecommunication services. The rules should be applied equally to all: the TAs should not be subjected to more onerous rules simply by virtue of the status of TA. Questions of market dominance must be addressed generally through the Community's competition rules in recognition of the fact that market dominance may arise through a de facto

position in supply of terminal and network apparatus as well as from the de jure or de facto position of the TAs.

9. In the enforcement of the Treaty rules, due weight must be given to the need for co-operation between TAs in order to provide for the proper conduct of international telecommunications so as to meet the needs of users. Without appropriate bilateral and multilateral agreements and understandings, international telecommunications would be impossible. It is not, in our view, sufficient to say that agreements which genuinely benefit consumers will be eligible for exemption under Article 85(3). Exemption under that Article would still have to be sought, and the burden of notifying all existing agreements would be enormous. Likewise the Commission's DGIV would be unable to respond in any reasonable time; and it would be potentially disastrous if Europe's telecommunications were to be run for years on the basis of agreements which could be declared invalid overnight. We believe that for these reasons some exemption, or at least opposition procedure, should be available in respect of international operating agreements.

10. A particular problem which the Community's competition rules must confront is the tendency of member state governments to use public funds to finance the provision of services seen by the government as innovative

or otherwise socially or politically desirable. Such practices are clearly inimical to fair competition, whether between TAs or between the TA and private service providers, and must be prevented by the Commission if a fair market is ever to develop.

11. We feel strongly that the existing Community institutions are perfectly adequate to administer and enforce the Treaty rules in the telecommunications industry. The creation of a European telecommunications regulatory authority would, in our view, merely add to the costs of regulation, duplicate national supervision, increase regulatory uncertainty, and obscure, if not actually hinder, the implementation of the policies set out in the Green Paper.

#### Common Commercial Policy and External Relations

12. We recognise the desirability for Europe to present a strong and coherent front in international negotiations and believe that this can best be achieved through a continuous process of consultation and negotiation. This will doubtless be facilitated by the gradual implementation of the various aspects of community telecommunications policy. However, we are concerned about the issues addressed in the Green Paper on this subject. It is essential that the freedom of all telecommunications

operators, including TAs, to contract with others outside the Community should be respected. Each TA is in a different commercial position; and what makes sense for one will not necessarily be suitable for another.

### Procurement

We are concerned about the proposals to extend the coverage of the procurement recommendation and to replace it with a directive. A substantially greater burden than now exists would have serious commercial implications (in terms of actual costs and premature disclosure of market intentions) for operators facing competition and would not in these circumstances provide real benefits to suppliers.

Procurement rules are necessary only where market distortions resulting from the existence of monopolies prevent fair access to markets. Where there is effective competition at the end user level in the supply of network services (in relation to procurement of network equipment), or in the supply of customer premises equipment (in relation to procurement of that), purchasers are forced to apply commercial criteria. Reversed distortions would in fact occur if rules were applied only to selected persons in such markets. Any procurements must therefore be applied even-handedly to all participants in any market and should be minimised in competitive markets: that is, they must be structured in such a way that they do not

operate in member states where competition dictates procurement choices.



To be transmitted by fax to Michael Hardy,  
Director of DGXIII of the CEC

CECUA Comments on the Communications Green Paper

"A Europe-Wide Telecommunications Market" dated June 1987

These comments are submitted by fax, and apologies are made for any errors of omissions due to their being transmitted during the President's absence from his office in connection with business commitments. Any requests for amplification or modification by the Commission will be actioned immediately they are received.



1. Comments on General Issues

CECUA welcomes the opportunity to submit its views on the Community Green Paper

"A Europe-Wide Telecommunications Market" dated June 1987.

The following general comments provide the background to our more detailed comments, and indicate the user view on the Green Paper, and likely future developments. They are as follows:-

- .1 Telecommunications will be the vital key to building up tomorrow's services which will become a dominant sector of industry, as time goes on. The concept of a single European infrastructure is commended and supported.
- .2 Development of unified and universal communications standards and services will be the key to the open Europe of 1992 and the open European market. If communication services are developed in harmony with the relaxation of market controls, this will have the joint effect of strengthening and unifying Europe - which is believed to be the Commission's intention.
- .3 Since a considerable number of IT systems will necessarily interface to the future communications services, using appropriate standards, a mixed supplier approach is implicit, and indeed vital. The commitment and support of the suppliers to provision of appropriate standards is vital, and CECUA applauds the constructive attitude already taken by SPAG, particularly within its guide to the use of standards, and the constructive approach being taken by its newer counterpart, SPAG Services.
- .4 It is believed that OSI standards will become dominant in the short term - since they are now nearing a reasonable stage of development. In the longer term it is believed that ISDN services in combination with a developed version of the OSI upper layers will be required, and will emerge as the dominant standards set.
- .5 Many future industrial elements and services will be based on value added networks. It is desirable to statutorily require that these align with appropriate standards - in the short term OSI. The representations made by NCUF in the U.K., which resulted in the U.K. Government requiring Value Added Network Services to align with OSI within a reasonable timescale is a policy we would commend to the CEC as being worthy of consideration as a cross-European policy. This

suggestion has already been made to the Commission in a CECUA briefing.

.6 Security will become increasingly important as systems converge on common standards. In particular the following elements are likely to become important:-

- confidentiality
- integrity
- access control
- authentication including the use of encrypting devices for authentication
- repudiation of messages
- disguising traffic flows

The urgent requirement for encryption algorithm standards to provide confidentiality and authentication features has already been recorded in a previous briefing to the Commission - dated November 1986.

.7 In addition to standards which facilitate interconnection, common standards are urgently needed for diagnostics and error reporting.

.8 It is anticipated that the development standards will be progressive, and will progressively include the following capabilities:-

- a capability to enable connection to occur, and data interchange to occur
- standards which permit full interworking including interactive interworking
- standards which permit the interchange of units which are functionally identical, and physically similar. The latter standards satisfy the latter requirements, are complex in nature, since equipment must essentially be designed to the same detailed standards to achieve this goal.

.9 Quality of service will be extremely important, and this is an area which may need to be researched as plans develop.

.10 Contingency planning is important, and may be considered to be a part of security, it is a subject in its own right. For example, "lost messages" may

need to be stored in a buffer store, until the sender or intended receiver can be advised, and appropriate recovery action taken.

.11 With regard to the spread of services and penetration of rural areas, the provision of services on the widest possible geographical basis is applauded and supported. So also is the principle of cross-subsidisation - using revenues from the lucrative urban areas to subsidise services in the sparsely populated rural sectors. Indeed, the provision of good communication services will play a major part in maintaining and hopefully increasing the population of rural areas.

.12 The development of universal communication standards will open up new technical areas - which need to be considered at this point in time and indeed the second of these is already under study. They are as follows:-

- distributed databases - where the degree of distribution of databases is ultimately determined by the tariffs applied by the various service suppliers.
- information, formatting and representation - which is the key to electronic data interchange mentioned in the Green Paper. The Commission's tedis initiative is supported, and it is believed that that initiative can usefully draw on the previous odette and citpro initiative.
- provision of cross community services will raise legal issues not yet found within the Green Paper so far as can be determined. These include the following although this is not an exhaustive list:-
  - authentication - with particular reference to the legal significance of an authenticated transaction transmitted wholly by electronic means - such as signature on a contract
  - the right to inspect data in transit - which may or may not still apply in certain PTT domains
  - the legal significance and effects of non-repudiation of messages which corresponds to the legal action of "process serving" in certain circumstances.

## 2. Comments on a Number of Specific Technical Points

CECUA has the following observations - which should not be regarded as an exhaustive analysis at this point in time. They are as follows:-

- In section 1.4 reference is made to a multi-function PABX - which can be replaced functionally by a high speed local area network and a gateway to wide area network services. Which of these two options is to be preferred and developed? In general multi-function PABX'S are slower than local area networks - although some types of local area network - especially CSMA/CD do have response time problems under heavy load conditions.
- In 3.2 reference is made to basic services and CECUA would suggest that ISDN should include all the services mentioned including:-
  - video text based on the CEPT or a later standard which accommodates the U.K. and French systems
  - teletext services where the key to success is a common protocol implementation conformance statement (PICS)
  - electronic mail services - which should hopefully be based on a harmonised version of the X.400 standard

Two issues not clearly identified within the report form the subject of the next two comments which are as follows:-

- the migration path from present analogue circuits needs to be carefully planned - otherwise such circuits will create bottle-necks within the anticipated trans-European networks. The reliability of analogue circuits also gives cause for concern in certain circumstances and needs to be carefully considered.
- tariffs are vital - as mentioned in 4.3.5 and are the ultimate determinant influencing system design. To amplify this comment further - if tariffs are low systems will tend to be centralised, and information will be taken to and from resource

sharing systems for processing. If on the other hand tariffs are high, the amount of communication used will be minimised, and local systems will be built up to the largest possible size to minimise the use of expensive communication used.

### 3. Outline Proposals

CECUA submits the following outline proposals for consideration:-

- .1 Harmonisation of standards implementations is the key to success in many communication areas, and the possibility of implementing key software entities such as the ACSE/Presentation/Session elements of OSI, and then distributing the corresponding software free of charge (following the example of the U.S. Procomm System) is recommended to the Commission. This philosophy was supported by a CECUA sponsored OSI workshop held in the U.K. in September.
- .2 The absence of trans-European encryption standards under total European control is currently a problem - and this problem has again been brought to the attention of the Commission for consideration. Proliferation of proprietary encryption standards - particularly American oriented standards could lead to very considerable investment in differing encryption devices, and increase in the complexity of systems and therefore decrease in their reliability, and ultimately total chaos within the European community.
- .3 Access control is vital - since access control becomes a vital security and control element as open systems become a reality. It is suggested the Commission carefully monitor the progress of an Open Security Project within the Rac Programme, a proposed Open Security Project within DG13E, and other Security Projects including experience within the ESPRIT Programme.
- .4 Basic services need to be harmonised - in such a way that they can be successfully integrated with the forthcoming ISDN services standards and features. It is therefore recommended that such basic services be harmonised across Europe in terms of the services provided - including such factors such as speed of operation, protocols used for transmission, error recovery and contingency features, and tariffs.
- .5 Value added services need not be harmonised across Europe as long as the access standards are harmonised, and access to each European value added service is available to interested parties within the Community.

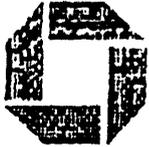
- .6 The dynamic allocation of communication space between data transfer and voice transfer is important to many user organisations, and any technical restrictions which inhibit such dynamic allocation of communication space should be resolved or removed as soon as feasible.
- .7 Within the standardisation area, the most obvious gaps in the OSI standards set are the standards for directories, and the general management of OSI transfers. It is therefore recommended that the Commission exerts all possible pressure on CEN/CENLEC and ISO to produce working standards and implementations within these areas by 1982.

CECUA believes this is an important initiative, which it fully supports in principle. It will be willing to assist with the progression or resolution of all the items listed within this section, together with other items which may be referred to the Commission by other interested parties.

*J. R. Owen*  
.....

10 December 1987

*pp.* F E Taylor



APPENDIX I. ΛΕΥΚΑ, ΓΡΕΚΟ  
ΠΑΝΕΛΛΗΝΙΑ ΕΝΩΣΗ ΧΡΗΣΤΩΝ ΥΠΟΛΟΓΙΣΤΩΝ (Π.Ε.Χ.Υ.)

COMMENTS ON THE GREEN PAPER  
ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATION SERVICES AND EQUIPMENT

Athens 15 / 87

1. The publication of the commission's green paper on telecommunications is of great interest to the IT users since it contains some major proposals which will influence significantly the users throughout the E.E.C., including Greece
2. The proposed phased opening of the market for terminal equipment to competition is necessary and will benefit the users. CFCUA's recommendations on the process should, however be heard during this process
3. The same comment applies to the issue of the extensive opening of the market for telecommunication services to the competition. Care should be taken, however, on the selection of the set of basic services which will be regarded as essential for safeguarding public service goals. User interests should be heard on this issue
4. The proposed increase of transborder services provided within the community should be beneficial to the user and should be given higher priority.
5. National telecommunication administrations should be encouraged to provide the necessary infrastructure and follow new technical developments. This is particularly important for greek IT users, since the greek P.T.T. has failed so far to provide a number of essential telecommunication services to the users (PSDN etc)
6. User charges must always be connected to the development costs. Final charge levels, should however be decided only after consultation with the corresponding user groups



## ΠΑΝΕΛΛΗΝΙΑ ΕΝΩΣΗ ΧΡΗΣΤΩΝ ΥΠΟΛΟΓΙΣΤΩΝ (Π.Ε.Χ.Υ.)

7. The proposed promotion of a consensus between the social partners to facilitate the changes involved and exploit the network developments and services in the creation of new jobs is certainly a necessary strategic objective which should however be followed with more specific recommendations.
8. The establishment of an European Institute for Telecommunication Standards is undoubtedly useful. More attention should however be paid at the same time on the needs of the national standardization and harmonization efforts. An area where greek I.T. users face serious problems today.

Greek I.T. users will be interested to be informed on a regular basis of any significant developments on the subjects addressed in the green paper.

G. Pongalis

Greek National representative to CFCGA

EIKFPA

(Greek Computer Users Association Secretariat)

Athens, Greece

# cigref

CLUB INFORMATIQUE DES GRANDES ENTREPRISES FRANÇAISES  
21, avenue de Messine, 75008 Paris, téléphone 47 64 24 94

APPENDIX 2, CIGREF PARIS.

N/RÉF. 87 539

le 23 juillet 1987

## STRATEGIE DE LA C.C.E. DANS LE DOMAINE DES TELECOMMUNICATIONS

### COMMENTAIRES DU LIVRE VERT PAR LES GRANDES ENTREPRISES FRANÇAISES

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#### 1. LES CONTRAINTES ET ATTENTES DES UTILISATEURS

1.1 Les utilisateurs veulent pouvoir développer des réseaux européens uniques dans les domaines Commutation de paquets, Vidéotex, RNIS, etc. c'est-à-dire l'ensemble du secteur appartenant aux actuelles ou anciennes Administrations des Télécommunications, et donc régi par un monopole et une réglementation.

Cela implique :

- \* Une normalisation éventuelle européenne unique ou des gate-way permettant de suppléer l'absence de normes entre les réseaux des pays membres.
- \* La disposition d'un maître d'oeuvre unique européen pour un service ou une liaison spécialisée, y compris pour la maintenance.
- \* La mise en place de filiales communes de dimension européenne, chargées de la fourniture unifiée européenne des services en cause.

### 1.2 Services à valeur ajoutée

Ils se développent à partir des systèmes d'information d'entreprises actuellement existants, c'est-à-dire en l'absence totale de réglementation. Pour nous, ces services se caractérisent par les éléments suivants :

- \* Absence d'agrément, sauf imposition d'une normalisation européenne unique à moyen terme (il convient à court terme de pouvoir amortir convenablement les investissements faits).
- \* Interfonctionnement européen du service au niveau du protocole de télécommunications commun, qui est du domaine de compétence d'une normalisation propre à chaque secteur économique. Cela implique l'organisation d'un dialogue entre les fournisseurs et les secteurs économiques concernés, et une discussion des différents secteurs économiques entre eux, en liaison avec les Administrations des Télécommunications et la Communauté.

### 1.3 Le concept Réseau Privé

- \* Un tel réseau a en principe une dimension européenne.
- \* Il appartient à une entreprise, à un groupe d'entreprises, à une profession ou à un prestataire.

Le problème de la revente de trafic numérique ou vocal à l'extérieur se pose, soit directement, soit par le canal d'un prestataire.

- \* L'interfonctionnement doit être assuré avec d'autres réseaux privés, ou avec le réseau général. Les problèmes technique (normes, interfaces correspondants) et de tarification, doivent être réglés à la satisfaction du marché.
- \* Relations avec d'autres types de réseaux pour la voix ou pour les données (réseaux par satellite, réseaux câblés locaux de diffusion de télévision, etc.).

.../...

## 2. STRUCTURE

Dans chaque pays membre, la séparation des fonctions réglementaire et d'exploitation est essentielle. C'est un des points clés de la proposition de la Communauté dans le livre vert.

On doit avoir la même structure au niveau européen avec l'autorité suffisante et reconnue par les instances des pays membres.

### 3.1 Mise en place d'un Institut Européen de normalisation

Quelles en seront les fonctions, statut, relations avec la Communauté et les Administrations des pays membres ?

Une des fonctions essentielles à organiser est la fonction de certification :

- \* pour les protocoles réseaux,
- \* pour les procédures application.

Il est nécessaire de disposer à ce sujet d'une structure européenne forte.

### 3.2 Autorité européenne pour la réglementation et l'agrément en liaison avec les structures nationales.



# NATIONAL COMPUTER USERS FORUM

NCUF Secretariat:  
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Telephone: 061-228 6333 Telex: 668962

PGR/DS

13 July 1987

Dr F E Taylor  
P O Box 5  
Toft Road  
Knutsford  
WA16 9DU

Dear Frank

With reference to your letter of the 26th June, I am responding concerning the Green Paper "On the Development of the Common Market for Telecommunications Services and Equipment".

Although not a specialist in telecommunications and therefore not competent to comment on most of the Green Paper, I nevertheless picked up a matter concerning Data Protection which gives me cause for concern.

I refer to the section in Chapter 8, page 142, sub-heading 3.2.1. where, it is suggested in the middle of page 143 that "harmonising community legislation is introduced based on existing international conventions and declarations". My problem here is with the word "existing" since it seems to me that the present international conventions, even the principles involved, are based very much on the technology as it was in the 60's/70's and need rethinking in the light of current and future developments. I believe very strongly that a totally new initiative is needed in this area.

I hope you can include this point in any response made to the Commission.

Best wishes

Yours sincerely

Patrick G Raymont  
Secretary-General

**CEN/CENELEC**

THE JOINT EUROPEAN STANDARDS INSTITUTION  
 ORGANISATION COMMUNE EUROPEENNE DE NORMALISATION  
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<b>KABINETT NARJES</b>	
Eingang	10-7-1987
Uhrzeit:	
Tybl. Nr.:	6748
vorgel. am:	HUS <i>H. Reults</i>

Herrn Dr. K.-H. NARJES  
 Vizepräsident  
 CEC  
 RUE de la Loi, 200  
 1049 BRUXELLES

1987-06-23

Ref: CENELEC/4369/CEN/036

Betrifft : Gemeinsamer Markt für die Telekommunikation

Sehr geehrter Herr Dr. Narjes!

Das zum obigen Thema kürzlich veröffentlichte Grünbuch wurde von den CEN/CENELEC-Gremien mit Interesse zur Kenntnis genommen. Aus unserer Sicht enthält es eine gute Analyse der wesentlichen Probleme und überwiegend zielstrebige Vorschläge zur Realisierung des Gemeinsamen Marktes auch in diesem Bereich und einer daraus resultierenden Stärkung der Wirtschaft dieses Raumes durch Realisierung einer zukunftsorientierten Infrastruktur.

Die engere Definition der streng reglementierten Telekommunikationsbereiche und eine Erweiterung des Wettbewerbs wird sicher eine wesentliche Rolle bei der Schaffung des Gemeinsamen Marktes bis 1992 spielen.

Überrascht haben uns im Grünbuch die Aussagen zum Bereich der Normung, die in dem Vorschlag zur Bildung eines Europäischen Instituts für Telekommunikationsnormen gipfeln. Wir stimmen zwar dem Urteil darüber zu, daß eine weitere Intensivierung der bisherigen Bemühungen nötig ist. Wir bestreiten jedoch, daß die Einrichtung des vorgeschlagenen Instituts eine Besserung verspricht. Sie würde vielmehr die schon jetzt bestehenden Schwierigkeiten noch vertiefen, die nach unserer Überzeugung in einer unzureichenden Berücksichtigung der zunehmenden Verzahnung zwischen Informationsverarbeitungs- und Informationsübermittlungs-Technik sowie dem fortdauernden Anspruch der Netzbetreiber (organisiert im Rahmen von CEPT) auf eigenständige Regelungen für IT-Endgeräte liegen.

Das Grünbuch weist der Informationstechnik, die gemäss heute weiter gefasster Definition die Telekommunikation beinhaltet, eine Schlüsselrolle für die zukünftige Beschäftigungspolitik im Gemeinsamen Markt zu. Es ist daher erforderlich, daß auch im Interesse der Schaffung von ausreichenden Marktvolumina auch für kleinere und mittlere Unternehmen eine Vereinheitlichung (Normung) von Funktionsmerkmalen von Informationstechnik-Endgeräten, wie sie im umfangreichen Masse sowohl in Computernetzen als auch mehr und mehr in zukünftig integrierten Telekommunikations-Netzen eingesetzt werden, vorgenommen wird. Es ist daher der Grundsatz anzustreben, daß gleiche Geräte für gleiche Kommunikationsanwendungen nach gleichen Normen konzipiert werden sollten, unabhängig davon, ob sie in privaten oder öffentlichen digitalen Kommunikationsnetzen eingesetzt werden.

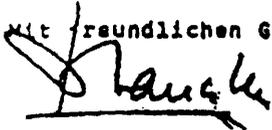
Wir sind daher der Überzeugung, daß für alle betroffenen Kreise eine befriedigende Regelung nur bei Konzentration der Normenarbeit im Rahmen einer einheitlichen Struktur gefunden werden kann, die die gleichberechtigte Mitarbeit aller betroffenen Kreise, also vor allem der Netzbetreiber, der Hersteller und der Anwender, gestattet. Wie z.B. in den Verträgen zwischen KEG und CEN/CENELEC vereinbart, ist es die ausdrückliche Aufgabe der Normenorganisationen, die für den EG-Bereich in CEN und CENELEC zusammengefasst sind, diese Zusammenarbeit zu organisieren und Ergebnisse nach dem Konsensprinzip zu produzieren.

Dabei wird nicht bestritten, dass die Netzbetreiber ein vorrangiges Entscheidungsrecht für alle Fragen haben müssen, die einen ungestörten Betrieb der Telekommunikationsdienste betreffen. Sie müssen darüber hinaus auch die Möglichkeit haben, den für sie wichtigen Festlegungen aus gemeinsam erarbeiteten Normen durch eigenständige Entscheidung für ihren Bereich Bindungswirkung zu verleihen. Dies kann durch das Instrument NET durchaus in der Weise geschehen, dass auf europäische Normen oder Teile dieser Normen Bezug genommen wird.

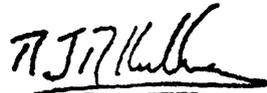
CEN und CENELEC haben zu dieser Frage detailliertere Vorschläge entwickelt, die nach unserer Überzeugung die geeignete Basis für die konsequente Durchführung der einschlägigen Ratsentscheidungen, Ratsbeschlüsse, Ratsempfehlungen und der bisher getroffenen Vereinbarungen darstellen. Eine Einigung auf dieses Konzept würde die Gründung eines neuen Instituts und daraus möglicherweise resultierende Konflikte gegenstandslos machen.

Wir bitten eindringlich darum, uns kurzfristig Gelegenheit zu geben, Ihnen unsere Vorstellungen näher zu erläutern.

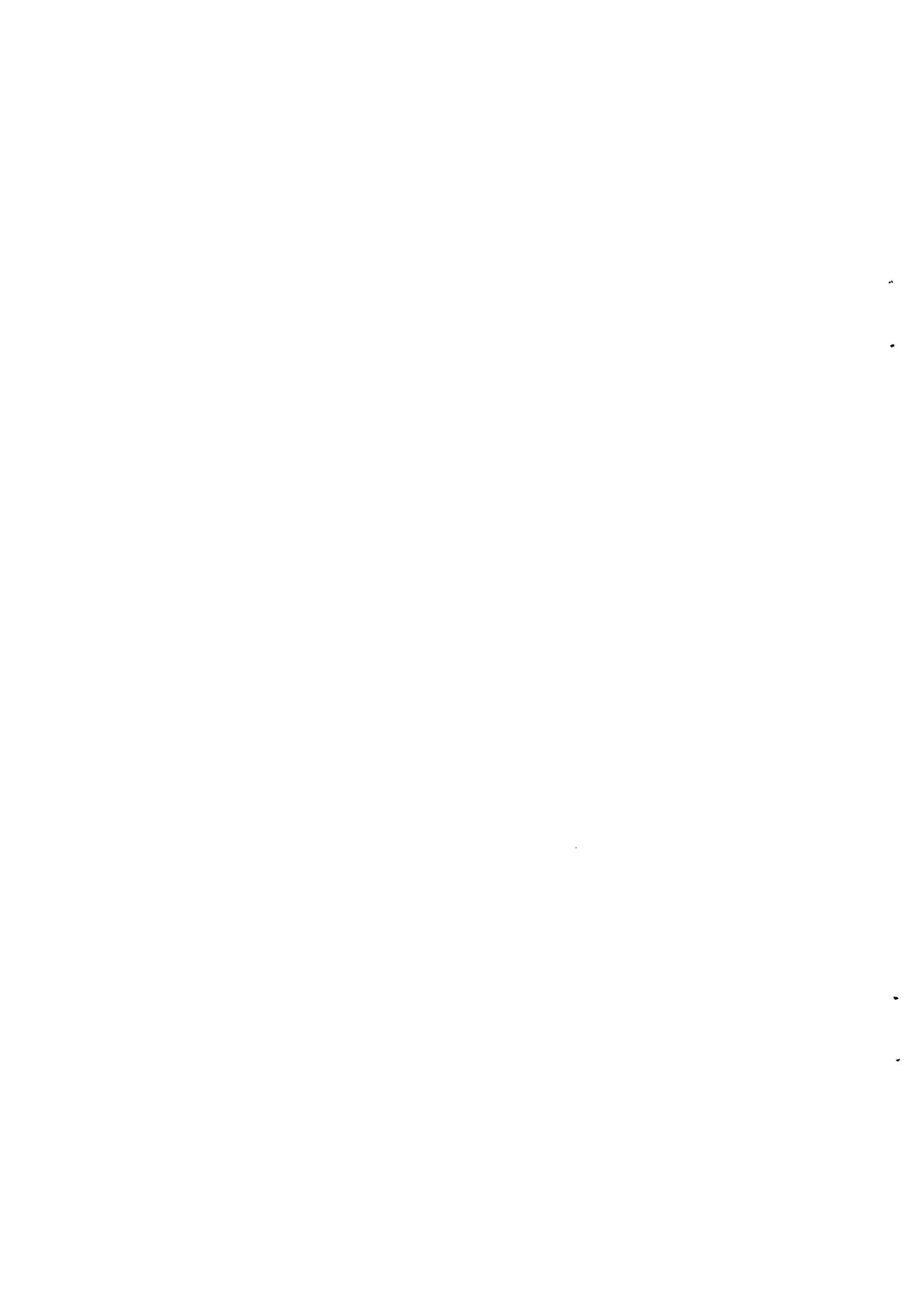
Mit freundlichen Grüßen,



B. VAUCELLE  
CEN-Präsident



R. KIRKHAM  
CENELEC-Präsident



## Comments from the point of view of CERN/HEP/RARE.

Although the Green Paper covers many topics which concern us, its title already indicates that it is mainly concerned with the market for telecommunications services and equipment, not explicitly on current data networks, on our PTT problems, on RARE/Cosine, on improving the protocol situation, to give examples of matters which RARE is concerned with.

The emphasis is on regulation and on re-regulation to enlarge the ability of Community firms to compete for contracts to supply PTTs and users with network equipment - terminals, switches, transmission systems, and to set up and operate value added services over the PTT infrastructure without most present day constraints. The PTTs would maintain monopoly of the transmission infrastructure with some basic service(s) to allow them to gain the resources to run and expand the system. The voice telephone is said to be the only suitable service to be reserved to the PTTs.

The measures proposed would certainly allow HEP, or a larger RARE/Cosine group, to set up a private data network using leased lines at reasonable tariffs, since the only constraint suggested is that leased lines should not be used for cream-skimming voice traffic on popular routes. Other bodies who wished to run general data networks could do so, and HEP could subscribe to one of those, rather than run its own network.

The development of ISDN is seen as the future general network for telecom services, and the Commission is axing its proposals to get ISDN and terminal equipment available on a Europe-wide basis.

The need for getting standards developed and introduced more quickly is stressed, with the proposal to set up a standards institute as a backbone for more intensive collaborative work between industry, PTTs and users.

The present tariff structures and levels are criticized politely, quoting other bodies, and the recommendation, and projection, is that tariffs, particularly for ISDN, should be less distance dependent, should not take note of crossing national boundaries, and should move more towards real costs. This would imply, as now in USA, decreases for long distances with compensating increases for local traffic, not a politically a popular move.

Thus most of the proposals are positive from our point of view, so far as changes in regulations can help. The weakness is that the more practical actions proposed by the Commission are limited, and not aimed to help us in the next 5 years or more. Almost all the money for telecoms in the new Framework Programme for R&D is for RACE, 800 MECU for a future broadband ISDN, and STAR, 780 MECU for improvements in Greece, Portugal etc. No part of their programme is aimed at supporting intermediate developments, e.g. 2 Mb/s ISDN, high speed packet networks, gatewaying LANS to WANS at high speeds, network control systems. Some of these

topics might get small support from other EEC programmes, like ESPRIT or COST, but they are not in the main line of those programmes, and are not likely to get high priority there.

Further, there is a major absence in the Green Paper, and that is the USER of all the systems and services discussed. He is mentioned occasionally en passant, but almost everywhere as a dumb consumer of services provided by others, whose basic aim, in the competitive world described by the Paper, is to take the consumer's money and give him as little as possible in return.

The Commission has to be told again and again two things: one, that network services set up without real user participation are too often failures, and second, that it should see that it has a role as a user advocate, and not only follow sheeplike behind what the PTTs and computer firms tell it. There are telecom user associations, trade oriented, whose views are quoted once or twice, but who represent more a business lobby than a group who actually do things with networks, as we and other parts of the science and technology community do, as real-life developers and users of advanced communications systems.

Europe needs to repeat the three big success stories in our field: the Arpanet, done by the US scientific user community; the development of Janet, driven by the UK high energy physicists and other scientific users; the Minitel, done by the French public. In all three there were two necessary factors to get a new technology into wide public use: the users did much of the work, and they got it for free. Counter examples are ATT's abandoning its proposed public packet net after spending 1 B\$, IBM's failure with SBS, the UK and German PTTs' with their videotext systems, all of which were engineer driven with little user involvement before collapsing.

The Commission should be putting 10% of its RACE budget (15 MECU/yr) into paying for people in HEP and other user/development labs to build, operate, and use a Cosine network, with development work for higher performance add-ons as soon as technically feasible.

Meanwhile, the Commission should use the general agreement it has for the broad trend to re-regulation of PTTs which it proposes, to get a general CEPT dispensation from third party traffic constraints for RARE/Cosine networks, as a stimulus to rapid development of usable connected networks in Europe. It should also put money into protocol converters as the best way to move communities to OSI as products come available.

Finally, the Commission should take many more skilled users onto its advisory committees, with pay if needed, to confront/agree with the other interested parties while Commission policy is being made and applied. It could organize and fund a forum for active users on a continuing basis, to encourage users to get together, and to have a pool of known useful advisers to tap.

N/RÉF. EP/JS - 87 821

le 10 décembre 1987

## COMMENTAIRE DU LIVRE VERT PAR LES GRANDES ENTREPRISES FRANÇAISES

- I - Position Générale.
- II - Commentaire des "Positions proposées" par la Communauté dans la Figure 13.
- Annexe - Le point de vue des Grandes Entreprises Françaises sur l'évolution de la réglementation des Télécommunications (note de 28 avril 1987)

### I - POSITION GÉNÉRALE

#### 1. REMARQUES PRELIMINAIRES

Les Grandes Entreprises sont particulièrement sensibles à la perspective du grand marché de 1992 qui les obligera à accélérer les évolutions en cours et à opérer de façon systématique sur l'ensemble du territoire européen. C'est pourquoi l'initiative de la Communauté, que représente le Livre vert, a été perçue comme particulièrement importante. D'une façon générale, les entreprises françaises se félicitent de cette initiative et sont prêtes à la soutenir en ce qui les concerne.

Le CIGREF a d'ailleurs déjà exprimé sa position à l'usage des Pouvoirs publics français. Ce document s'applique également au niveau européen. Il est joint en annexe.

Il convient de remarquer que le présent document émane d'un groupement de grandes entreprises qui sont strictement utilisatrices, bien que conscientes des contraintes qui sont celles de l'ensemble des acteurs du marché, et en particulier celles de leurs fournisseurs (emploi, contrainte de pérennité des opérateurs, rôle dans le développement régional).

.../...

Le commentaire des entreprises est indépendant du statut des organismes chargés en Europe de pourvoir les services de télécommunications (Administrations ou Entreprises publiques), les uns et les autres dénommés ici "Entreprises de télécommunications".

- a. Les télécommunications sont un des moyens essentiels de la mutation que représente le grand marché européen. La réflexion sur ce problème en cours au niveau national et européen ne peut donc être le fait des seules administrations, mais concerne aussi le marché au premier chef.

L'action des Grandes Entreprises est maintenant et sera dans l'avenir de plus en plus européenne et mondiale, quel que soit le secteur économique.

Les services que nous trouvons déjà auprès des Administrations de télécommunications seront complétés dans l'avenir par des services à valeur ajoutée, l'ensemble se plaçant dans le cadre d'une nouvelle génération de systèmes d'information reliant non seulement les différents opérateurs d'une entreprise, mais l'ensemble des opérateurs d'un secteur économique avec leurs partenaires (banquiers, transporteurs, etc.) et même ultérieurement l'ensemble des secteurs économiques entre eux dans un vaste réseau unifié unique.

Il y a donc une importante mutation des télécommunications qui induit une mutation non moins importante des procédures et modalités de relations entre opérateurs économiques.

Le RNIS va nous donner un réseau unifié voix, données, images, qui ne peut être que de dimension au moins européenne.

Notre compétitivité exige donc la mise en place rapide d'échanges automatisés de données. Un nombre croissant de secteurs industriels ou tertiaires réfléchit au problème. De toute façon, si les opérateurs européens (Administrations, Industriels, Sociétés de services) ne sont pas capables de s'organiser pour définir les procédures d'échange de manière satisfaisante, les grands "carriers" des télécommunications mondiaux tels que IBM, EDS, etc. le feront à notre place sur le grand marché européen.

.../...

- b. La croissance en volume dans la part des télécommunications dans le PIB européen est à la veille d'une croissance très forte. On attend un triplement de la part du PIB consacré aux télécommunications d'ici à 1992.

La croissance des Réseaux à Valeur Ajoutée est également prévue dans un rapport 3,5 entre 84 et 90.

Les grandes organisations prévoient presque un doublement de leur pourcentage de trafic données, mais cette évolution ne fait que poursuivre celle déjà réalisée dans les années passées, puisque, pour les entreprises industrielles, le nombre de transactions trans-européennes est passé dans un rapport de 6 à 4800 entre 79 et 86 (chiffres extraits du rapport de 1987 sur les télécommunications de la table ronde des Industriels européens).

- c. La dérégulation du secteur Télécommunications aux Etats-Unis et au Japon est aujourd'hui engagée, de telle façon que les anciennes administrations dans ces régions du monde sont en position de concurrencer les administrations européennes. Le processus est d'ailleurs largement engagé en Europe. Les administrations traditionnelles qui existent encore sont donc amenées à envisager une mutation très rapide.

Le Livre vert émis par la Commission des Communautés Européennes doit être salué comme un document très important.

Les Utilisateurs ressentent le besoin d'un pouvoir Télécommunications en Europe, et attendent de la Communauté qu'elle génère cette fonction et facilite son émergence.

## 2. LES SERVICES DE BASE

Le Livre vert nous apparaît prudent dans la mesure où il envisage le maintien possible d'un monopole pour les infrastructures et les services vocaux.

### a. Les infrastructures

Le projet de loi français prévoit la possibilité d'opérateurs autres que la DGT pour les services de base, sous réserve d'un agrément attribué par l'autorité réglementaire, la CNCL.

.../...

La porte est donc ouverte à l'implantation en France de transporteurs européens, ce qui pose le problème de l'agrément au niveau européen.

La proposition du Livre vert, d'après laquelle les agréments locaux devraient être valables dans toute l'Europe, est un premier élément de réponse à ce problème. Mais, à notre avis, il faut prévoir une coordination européenne au moyen d'une autorité qui verrait logiquement sa compétence s'étendre sur les points suivants :

- . Choix de normes dans les réseaux et services de base.
- . Choix de principes tarifaires communs en vue de pousser à une harmonisation tarifaire ; de toute façon, la tarification devient de plus en plus indépendante de la distance. Le passage d'une frontière ne doit pas se traduire par un coût plus élevé.

b. L'attente du marché pour les services de base

Les réseaux privés d'entreprise se développent. Le récent décret les a autorisés en France, mais nous souhaitons en disposer dans une dimension européenne. Cela nécessite des liaisons spécialisées européennes avec nécessité de maîtrise d'oeuvre (installation et maintenance), que proposent de toute façon les carriers américains.

Les services de base doivent être normalisés. L'échec de la normalisation du vidéotex en Europe montre que la question posée n'est pas un faux problème, malgré les promesses faites. Les Utilisateurs entendent disposer d'une communauté de standards en Europe pour les réseaux de commutation de paquets et le RNIS.

L'échec de cette normalisation serait un échec flagrant des Communautés et des Administrations européennes.

Les tarifs doivent être indépendants des frontières. Même principes tarifaires, et si possible même niveau (cf. ci-dessus).

Nous souhaitons l'émergence d'entreprises européennes de télécommunications publiques ou privées. Certaines d'entre elles pouvant être des filiales communes des Administrations.

.../...

c. Le problème du trafic vocal

Le maintien du monopole pour le trafic vocal induit une dualité : réseaux publics et réseaux privés. Si le trafic vocal n'est pas totalement libre sur les réseaux privés, on court le risque d'une sous-optimisation des investissements faits en infrastructure. De toute façon, le RNIS ne permet pas cette séparation.

La revente du trafic vocal ne peut pas être interdite quand on autorise la revente du trafic données, et que les réseaux sont utilisés pour voix et données.

De toute façon, dans le contexte d'augmentation de la consommation auquel nous serons confrontés dans les années qui viennent, il est impératif d'optimiser l'utilisations des infrastructures.

d. Les équipements terminaux et l'ONP (Open Network Provision)

Les Utilisateurs français sont déjà habitués à la liberté sur les terminaux et les modems. Pour nous, un tel choix ne peut dépendre d'un seul fournisseur, fut-il l'Administration.

L'ONP, procédure commune d'accès, est également essentielle. Les Utilisateurs doivent être associés à son élaboration, ce qui implique leur présence dans les "groupes de fonctionnaires" actuellement chargés de la réflexion sur le sujet (GAP et SOG-T).

3. LES SERVICES A VALEUR AJOUTEE

a. Le Livre vert prévoit la liberté totale pour les opérateurs extérieurs aux Administrations.

Nous insistons en vue d'obtenir une dimension européenne de leurs services, ce qui est le cas évidemment d'opérateurs extra-européens.

Les Administrations doivent se placer en situation concurrentielle dans les mêmes conditions :

- \* Statut d'entreprise avec un important renforcement de la fonction commerciale.

.../...

\* Accords avec les opérateurs extérieurs et entre elles, en vue d'accéder à la dimension européenne des services.

Les Réseaux à Valeur Ajoutée européens doivent accéder à terme à une normalisation européenne unique conforme à l'OSI. En effet, si une première étape des Réseaux à Valeur Ajoutée sera propre à des groupes d'entreprises, l'étape ultérieure consistera en un réseau unique (ensemble de réseaux interconnectés aboutissant à un réseau unique généralisé) dont la dimension sera d'ailleurs alors plus qu'européenne.

Cette offre européenne de réseaux à valeur ajoutée doit être organisée de façon qu'il n'y ait pas de distorsion dans la concurrence entre les offreurs de services, notamment les Administrations de télécommunications, qui ne doivent ni être avantagés à l'excès par leur position dominante, ni affaiblis à l'excès par les contraintes de services publics qui sont les leurs.

La collaboration avec le marché pour la définition des normes d'échanges doit s'imposer aux Administrations comme à toutes les entreprises de télécommunications privées. Celles-ci doivent s'appuyer à la fois sur la normalisation mondiale en cours de définition (OSI et EDIFACT).

Une fonction de certification coordonnée au niveau européen est la condition d'accès à cette normalisation. Une telle fonction devra être dotée de l'autorité suffisante pour s'imposer, le moment venu, auprès de tous les partenaires concernés en Europe.

L'accord de certification mutuelle actuellement prévu est une première étape, à condition qu'il se place dans le cadre d'une politique de choix de standards coordonnée au niveau européen.

#### b. L'Institut Européen de Normalisation

Il répond aux besoins de cet ensemble de fonctions qui doit être pris en compte au niveau européen. Le marché l'approuve et souhaite lui voir jouer un rôle politique et technique important, ne dépendant pas de la seule CEPT. La présence de représentants des Utilisateurs dans son Conseil d'Administration est indispensable.

Le vote des participants au Conseil d'Administration de l'Institut devrait d'ailleurs être pondéré en fonction de leur poids sur le marché, c'est-à-dire en fonction du budget Télécoms qu'ils représentent.

Il nous apparaît utile que l'Institut puisse devenir à terme compétent pour d'autres problèmes que les télécommunications.

.../...

#### 4. CONCLUSION

Les Utilisateurs confirment leur très grand intérêt pour le Livre vert :

- \* Au niveau de la démarche commune qu'il représente, car il traduit une prise de conscience.
- \* Au niveau de son contenu.

Le CIGREF exprime quant à lui le besoin d'une autorité suffisamment forte au niveau européen pour régler le développement des télécommunications en Europe. Ce développement sans autorité européenne serait erratique, onéreux et gravement générateur de pertes de parts de marché pour les opérateurs européens.

De toute façon, l'absence d'une coordination centrale se traduirait par une perte de compétitivité des acteurs économiques européens dans le contexte de 1992.

Les fonctions d'une telle autorité centrale dont la définition fait l'objet du débat ouvert par le Livre vert, portent sur les problèmes de normalisation, de certification, d'agrément, de principes de tarification communs.

Cette autorité devra se coordonner avec les secteurs correspondants aux échelons nationaux. Les utilisateurs du marché perçoivent le Livre vert comme le premier balbutiement de l'expression d'une politique européenne dans le domaine stratégique des télécommunications.

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II - COMMENTAIRE DES "POSITIONS PROPOSÉES" PAR LA COMMUNAUTÉ  
DANS LA FIGURE 13

Dans leur ensemble, les Utilisateurs approuvent pleinement l'objectif du Livre vert et l'esprit des propositions résumées dans la figure 13. En particulier, l'objectif de créer un environnement européen ouvert à la concurrence et permettant au mieux le développement des nouvelles opportunités offertes par la technologie pour rester au niveau concurrentiel par rapport à nos partenaires américains et japonais.

**A) Exclusivité des droits spéciaux des Administrations pour les infrastructures et les services de base**

Nous constatons déjà l'établissement d'une concurrence à ce niveau au Japon et en Angleterre (Mercury). Aux USA, il existe la possibilité d'intervention des BOC dans d'autres secteurs géographiques que le leur.

Les grands Utilisateurs français recommandent aussi en Europe la pluralité et la concurrence dans les services de base. Ils souhaitent que la CCE établisse les conditions permettant l'émergence d'entreprises de télécommunications publiques ou privées à capitaux exclusivement européens, de dimension mondiale.

.../...

**B) Exclusivité pour un nombre limité de Services de base**

L'exclusivité du service vocal pour les Administrations ne paraît pas opportune, même seulement à court terme. En effet, l'autorisation de revente du trafic ne peut pas se limiter seulement au trafic Données mais doit s'étendre aussi au trafic vocal. Les réseaux privés, d'ores et déjà autorisés, ne pourront se voir interdire le trafic vocal sous peine de sous-optimisation de l'utilisation des infrastructures correspondantes.

Ceci d'autant plus que le RNIS se développera dans les toutes prochaines années soit dans le cadre de réseaux publics, soit dans le cadre de réseaux privés, et qu'il est structurellement construit pour mixer les deux types de trafic.

D'ailleurs, le Livre vert a bien prévu le caractère provisoire du maintien du monopole des Administrations sur le trafic vocal. Ce monopole pourra donc être remis en cause grâce à la procédure périodique de suivi proposée par le Livre vert.

Le CIGREF pense que les offres de services de base et de services à valeur ajoutée, même si elles sont faites par une même entreprise de télécommunications, devront être bien séparées de façon à ce que le profit sur les uns ne permette pas un dumping sur les autres.

**C) Offre libre des autres services**

Les grands Utilisateurs français partagent pleinement les vues de la Communauté sur le fait que les services à valeur ajoutée doivent être entièrement libres sur toutes les surfaces du territoire européen.

La condition de cette liberté est l'unicité de la normalisation, notamment pour le RNIS (cf. D)).

Le marché est aujourd'hui dominé par les entreprises étrangères à l'Europe. Les grands utilisateurs français souhaitent que la Communauté prenne les mesures susceptibles de susciter le développement d'entreprises à capitaux européens également dans le domaine des services à valeur ajoutée.

.../...

**D) Normalisation**

La normalisation unique applicable à l'Europe, qui doit d'ailleurs être la norme internationale, est une demande essentielle du marché.

Cependant, les services actuellement existants qui ne seraient pas conformes à cette norme, doivent pouvoir être normalement amortis, mais ils devront être contraints à terme de s'aligner sur la normalisation unique.

Si des divergences existent aujourd'hui entre les interprétations des différentes Administrations ou des différents opérateurs potentiels, elles doivent disparaître à terme notamment par les soins de l'Institut de normalisation des Télécom-munications qui doit jouer le rôle de guide vers un standard unique.

La certification de cette normalisation européenne unique avec mandat d'attribuer cette fonction à un certain nombre de laboratoires officiels, est aussi une condition nécessaire de cette convergence de la normalisation.

**E) Open Network Provision**

Une vision unifiée de mise en place progressive est souhaitée par les Utilisateurs, non seulement en ce qui concerne les normes (cf. ci-dessus) mais aussi en ce qui concerne les principes et les niveaux de la tarification et les conditions d'accès.

L'ONP doit être préparée dans le cadre du SOG-1, mais celui-ci devrait être ouvert également à toutes les entreprises de télécommunications privées et publiques et aux utilisateurs directement et prioritairement concernés par le problème au niveau applicatif, et compte-tenu de leur responsabilité en ce qui concerne le système de télécommunications interne à leurs Etablissements.

.../...

**F) Liberté des équipements terminaux**

La liberté des équipements terminaux est déjà acquise en France dans le cadre de la procédure d'agrément. Nous souhaitons que cette liberté s'étende à l'ensemble de l'Europe.

Une fonction d'agrément européenne doit être mise en place, par exemple par l'intermédiaire de l'Institut européen de normalisation.

**G) La séparation des fonctions réglementaire et d'exploitation apparaît aux Utilisateurs comme une nécessité fondamentale.**

Les fonctions réglementaires sont actuellement nationales. Il nous paraît nécessaire de voir apparaître une fonction réglementaire européenne pourvue d'une autorité suffisante.

**H) Condition égale de concurrence entre intervenants et lutte contre les abus de position dominante**

Une telle condition de fonctionnement du marché des Télécommunications européennes apparaît essentielle. Elle rejoint la position G) de séparation des fonctions réglementaires et d'exploitation.

Au moment où les télécommunications apparaissent comme un élément majeur de la compétitivité des entreprises, les Utilisateurs souhaitent que les tarifs se rapprochent de la vérité des coûts.

Le devoir national de Service public que doivent satisfaire les Administrations n'a aucune raison d'être financé au moyen d'une péréquation exercée sur les services de transport, et devrait, à notre sens, être plutôt financé par l'impôt.

.../...

I) Le suivi des conditions permettant d'éviter l'abus de position dominante est essentiel, soit par le moyen des prix, soit par celui des standards (cf. ci-dessus).

**J) Position commune de la Communauté vis-à-vis de l'extérieur**

Nous approuvons pleinement la recherche d'une position cohérente commune des Membres de la Communauté européenne vis-à-vis des partenaires extérieurs. Cette position doit être établie dans le cadre de la Communauté, chargée de représenter des intérêts communs dans le cadre de négociations internationales.

En ce qui concerne les choix de standards, cette position pourrait être établie en liaison avec l'Institut Européen de Normalisation.





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- A N N E X E -

L'EVOLUTION DE LA REGLEMENTATION DES TELECOMMUNICATIONS

- LE POINT DE VUE DES GRANDES ENTREPRISES FRANCAISES -

1. LES GRANDES ENTREPRISES FRANCAISES FACE AU PROBLEME DES TELECOMMUNICATIONS

\* Le CIGREF est une structure associative qui regroupe une soixantaine de grandes entreprises dans le domaine des nouvelles technologies de l'information. Son rôle est de traiter, par une concertation inter-entreprises adaptée, les problèmes communs aux grandes organisations - indépendamment du secteur économique auquel elles appartiennent.

Les Administrations n'en sont pas membres puisqu'elles sont ses interlocuteurs, mais des relations étroites existent.

Le CIGREF regroupe 14 banques, 9 compagnies d'assurances, 4 sociétés de transport, 19 groupes industriels, etc. parmi les plus importants de France.

Il représente 40 % du parc informatique installé en France, et 30 % environ de la facture Télécommunications des entreprises auprès de la D.G.T.

.../...

**\* Les grandes entreprises membres de l'association :**

Le budget Télécommunications moyen est de 150 à 200 MF. par entreprise ; les plus importants atteignent 400 MF.

Ces entreprises sont toutes actuellement confrontées à une mutation essentielle et difficile qui se traduit :

- . Par une remise en cause en profondeur de leur système d'information, et des outils qui le supportent - remise en cause débouchant sur des évolutions profondes de méthodes de fonctionnement, de structure, voire de comportement des hommes.
- . Par une ouverture essentielle de leurs relations internationales dont l'échéance de 1992, concernant la dérégulation des services en Europe, sera une étape majeure ;
- . Par une croissance prévisionnelle très forte de leurs dépenses en télécommunications d'environ 20 % par an en moyenne.  
La partie principale de cette croissance est concentrée dans les réseaux de données. La mutation en cours dans ces entreprises est celle de l'économie française. Les PME subissent la même mutation et doivent pouvoir être en relations automatisées avec les grandes entreprises donneuses d'ordres, comme le sont désormais leurs concurrents étrangers.

## 2. LES PRINCIPES QUI NOUS GUIDENT

L'appréciation du CIGREF sur les mesures susceptibles d'être prises dans le cadre de la déréglementation des Télécommunications, s'appuie sur les deux principes suivants :

- \* Les Entreprises du CIGREF, soucieuses de leur compétitivité internationale, ont besoin de disposer de moyens de télécommunications performants à des prix concurrentiels. Elles veulent se trouver sur ce point en bonne position technique et financière vis-à-vis de leurs concurrentes des autres pays.
- \* Les Entreprises du CIGREF se sont clairement prononcées pour la liberté d'assemblage de leurs matériels informatiques. La normalisation en matière de télécommunications est l'un des éléments fondamentaux - même s'il n'est pas le seul - nécessaires pour atteindre cet objectif.

.../...

### 3. CE QUE NOUS SOUHAITONS

- \* Que les recettes des télécommunications ne soient pas (ou plus) un élément modulable du budget de l'Etat.

Les entreprises doivent pouvoir baser leurs plans d'évolution des systèmes d'information sur des hypothèses réalistes d'évolution des prix, conformes aux hypothèses d'évolution des coûts de revient et de l'inflation. Elles doivent pouvoir compter sur des engagements à long terme des opérateurs en matière de tarification.

Dans ce sens, l'augmentation de 25 % du prix des télécommunications au cours de l'été 1985 s'est traduit par un choc économique sur les entreprises qui a remis en cause l'ensemble de leur planification dans le domaine Télécommunications.

- \* Que les prix des prestations de télécommunications soient fonction des prix de revient réels, et qu'il y ait une transparence des coûts correspondants.

Un même service doit être proposé par le même fournisseur au même prix, quel que soit le client ; les grands utilisateurs doivent cependant bénéficier de conditions tarifaires de groupe, analogues à celles dont ils bénéficient auprès de tous leurs autres fournisseurs.

Notre souhait est que la compensation financière entre le service public du téléphone et le transport de données à grandes distances disparaisse à terme.

- \* Que le coût des télécommunications ne soit pas plus élevé pour les entreprises françaises qu'il ne l'est pour les entreprises américaines ou japonaises.

- \* Que le respect de la normalisation internationale et européenne progresse fermement mais intelligemment chez tous les acteurs dans le domaine des télécommunications en Europe.

.../...

Une normalisation unifiée et au niveau européen est la condition de la mise en place de réseaux de dimension européenne, dans laquelle interviendront des fournisseurs multiples.

Le caractère obligatoire à terme de la normalisation ISO dans le réseau à valeur ajoutée français et européen nous paraît donc nécessaire. Par contre, ce résultat ne sera pas atteint rapidement. En conséquence, il conviendra, à court terme, que tout fournisseur de réseaux à valeur ajoutée puisse proposer une offre conforme au standard international permettant la possibilité pour le client de fonctionner immédiatement d'après le standard ISO.

Un système d'incitation de nature financière ou fiscale pourra être de nature à accélérer ce processus de normalisation.

- \* Que les obligations de service public, dont les entreprises sont conscientes soient clairement définies et imposées aux opérateurs de transport. Il appartient à la puissance publique de fixer les règles dans ce domaine.
- \* Que soit garanti le côté stratégique, pour la nation, de l'outil Télécommunication, et que les conditions de sa pérennité soient réunies.

#### 4. COMMENT Y PARVENIR

Au niveau des modalités, les entreprises clientes des Télécommunications ne peuvent que faire des propositions. Il nous semble que les orientations suivantes contribueraient à établir et à consolider une situation saine.

- \* Le développement d'une concurrence équilibrée nous paraît induire une séparation des fonctions de transport et de services à valeur ajoutée, qui devront être fournis par des opérateurs différents.
- \* Les services de télécommunications, qu'ils soient de transport ou à valeur ajoutée, doivent être proposés par des entreprises et non par des administrations.

.../...

- \* Les entreprises correspondantes doivent être clairement placées en situation concurrentielle, donc en particulier dans une situation fiscale de droit commun.

La mise en place d'une T.V.A. sur les télécommunications nous paraît donc opportune pour deux raisons : elle concourt à placer l'opérateur dominant dans une position d'entreprise agissant dans un cadre concurrentiel. Elle diminue la charge des Entreprises soumises à la T.V.A..

#### 4.1 Commentaire du projet de système de double tarification des liaisons spécialisées

Ce projet, récemment communiqué, traduit une simplification des principes retenus par rapport à ceux évoqués lors des réunions d'usagers de septembre et d'octobre 1986.

Cependant, ce système nous semble préjudiciable au bon fonctionnement de l'économie pour des raisons de principe et des raisons de modalités.

- \* **Raison de principe : principe de non discrimination**

Un fournisseur ne peut mettre un même produit à la disposition de ses clients à des prix différents, sous peine de fausser arbitrairement le bon fonctionnement du marché.

- \* **Au niveau des modalités**

. Un client final peut être contraint de prendre personnellement le risque de développer un réseau, malgré son désir éventuel de sous-traiter à un fournisseur cet effort et ce risque (qui peuvent dépasser ses moyens et ses objectifs d'action personnels). En d'autres termes, la double facturation prive les entreprises de leur liberté de choix quant à la meilleure manière de traiter leurs problèmes de réseaux.

.../...

- . Un tel système de tarification sera beaucoup moins préjudiciable aux grands opérateurs étrangers, qui peuvent effectuer une péréquation des recettes au niveau de l'ensemble des marchés mondiaux sur lesquels ils opèrent, qu'il ne le sera aux opérateurs français moins capables de faire une telle péréquation, du fait d'une couverture mondiale moins développée. Ce système conduit donc à terme à constituer en France un oligopole de quelques grands opérateurs étrangers, après élimination des opérateurs français, ce qui est contraire au but recherché.

#### 4.2 La nouvelle réglementation concernant la fonction de transport de l'information

En raison

- . du poids des investissements,
- . des obligations du service public,
- . de la nature stratégique pour la Nation de l'outil qu'est le réseau de transport,

il apparaît nécessaire que les opérateurs dans ce domaine fassent l'objet d'un agrément.

Cet agrément doit être assorti de la définition de règles permettant :

- . d'une part les interfonctionnements corrects des différents réseaux mis en place, en particulier au niveau européen,
- . d'autre part aux intérêts stratégiques de la nation d'être respectés : cahier des charges, limitation des intérêts étrangers, etc.

La présence d'un oligopole de fournisseurs (au minimum duopole) nous paraît indispensable à la garantie d'un coût minimum du service pour l'économie.

De même, la présence de plusieurs investisseurs nous paraît la meilleure garantie du maintien et du développement d'une infrastructure adaptée aux besoins de l'économie.

Enfin, les grandes entreprises souhaitent disposer d'une offre de dimension européenne, voire mondiale de la part des opérateurs de transport. Les dispositions de la loi doivent donc favoriser le développement de transporteurs européens.

.../...

Sans cette dimension européenne, on assisterait à un détournement de trafic au bénéfice des grands réseaux mondiaux déjà existants ou en train de se mettre en place. En effet, une simple liaison large bande permettrait de relier les sièges sociaux des grandes entreprises françaises aux têtes des grands réseaux mondiaux placés dans les autres pays européens.

Il s'instaurerait alors, comme autrefois en informatique, une **compétition entre pays européens**, au bénéfice exclusif des grands opérateurs mondiaux, ce qui concrétiserait l'échec de toute stratégie européenne en la matière.

Tous les pays européens ne sont peut-être pas prêts à adopter aujourd'hui un tel scénario. Il leur serait plus difficile de s'y opposer s'il était clairement inscrit, sous réserve de réciprocité, dans la nouvelle politique française.

**4.3 Les services à valeur ajoutée** correspondent au contraire à une activité économique dans laquelle les investissements sont proportionnellement plus légers et l'innovation est dominante. Il faut laisser toutes les opportunités de développement du marché se donner libre cours. On doit donc dans ce secteur avoir une activité entièrement libérale.

A notre avis, cette constatation justifie à nouveau le rappel du principe de non discrimination déjà évoqué, sous peine de fausser la concurrence.

Le système de double facturation des liaisons spécialisées en fonction de leur utilisation par des entreprises ou par des opérateurs spécialisés dans les services à valeur ajoutée, est en contradiction avec ce principe de non discrimination.

**4.4 L'existence souhaitée d'une offre européenne concurrentielle** en matière de réseaux de transport implique la mise en place d'une **politique commune en matière de normalisation**, dotée des moyens correspondants :

- . Moyens de définition des normes ; c'est notamment le dispositif mis en place dans le cadre du CEN/CENELEC, en liaison avec l'ISO.

.../...

- . Moyens de certification, avec la désignation de laboratoires européens agréés à fournir un label de conformité pour les produits et solutions testés.

Par exemple, une solution aux récents conflits concernant la normalisation du vidéotex, voire du télétext, si préjudiciables aux entreprises réside peut-être dans le caractère unique et obligatoire de cette structure de certification.

5. En conclusion, les grandes entreprises françaises membres du CIGREF rappellent leur intérêt pour l'important projet concernant l'évolution de la réglementation des Télécommunications actuellement en cours de préparation.

Elles sont particulièrement favorables à la possibilité de bénéficier dans l'avenir d'une offre concurrentielle tant dans le domaine du transport que dans le domaine des services à valeur ajoutée.

Les principes qui guideront cette évolution :

- . vérité des prix,
- . transparence des coûts,
- . concurrence loyale,

leur paraissent particulièrement essentiels.

Elles sont favorables à la mise en place d'un agrément pour les opérateurs de transport, par contre une totale liberté dans le domaine des services à valeur ajoutée leur paraît nécessaire.

Enfin, la loi en cours de préparation doit rester ouverte, de manière à s'adapter à toutes les évolutions technologiques ou des services, et permettre aux entreprises de bénéficier dans les meilleures conditions des progrès offerts. A titre d'exemple, le développement du Réseau Numérique à Intégration de Service (RNIS) qui mélange voix et données, ne permettra pas le maintien d'une séparation réglementaire telle qu'elle est actuellement envisagée en la matière.

16.7.87

Erste Anmerkungen zum Grünbuch der EG-Kommission  
 "über die Entwicklung des gemeinsamen Marktes für  
 Telekommunikationsdienstleistungen und Telekommunikations-  
 geräte",

speziell zu Kapitel X "Vorschlag für eine Lösung"

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I. Grundsätzliche Bemerkungen

Der EWG-Vertrag fordert eine gemeinsame Politik auf dem Gebiet des Personen- und Güterverkehrs (Artikel 74 EWGV); der Post- und Fernmeldeverkehr findet im Vertrag dagegen keine Erwähnung. Auch die Einheitliche Europäische Akte, die der Gemeinschaft ausdrücklich eine ganze Reihe neuer Aufgabenfelder zugewiesen hat, spricht nicht davon, daß dazu auch die Entwicklung einer gemeinsamen Telekommunikationspolitik gehören sollte. Wer daraus die Frage ableiten möchte, ob es für eine gemeinsame Politik auf diesem Gebiet und derart, wie sie von der Kommission mit dem Grünbuch initiiert wird, überhaupt eine Notwendigkeit gibt, wird aber anerkennen müssen: Eben diese Notwendigkeit umfassend und sachlich dargelegt zu haben, ist die wichtigste Leistung, die die Kommission mit ihrem Grünbuch zunächst einmal erbracht hat.

Unabhängig davon, ob sich die Gemeinschaft um die Gestaltung des ordnungspolitischen Rahmens für die Märkte der Telekommunikation kümmert oder nicht, würde aber auch gelten, daß kein Mitgliedstaat sein eigenes Fernmeldewesen heute noch neu organisieren kann, ohne darauf zu achten, was in den anderen Ländern vor sich geht. So wie die Mitgliedstaaten überdies verpflichtet sind, alle Maßnahmen zu unterlassen, "welche die Verwirklichung der Ziele des Vertrages gefährden könnten" (Artikel 5 EWGV), müssen sich

die Organe der Gemeinschaft und an erster Stelle die Kommission verpflichtet fühlen, für die Probleme gemeinschaftliche Lösungen zu entwickeln, die sich im Fernmeldeverkehr überall im Grunde in gleicher Weise stellen.

Zu einem guten Teil sind diese Probleme durch den Vorgang bedingt, der im Grünbuch kurz aber treffend mit der Feststellung beschrieben wird, daß nunmehr auch aus Dienstleistungen der Telekommunikation Handels-  
güter werden oder schon geworden sind. Das zieht zwangsläufig nach sich, daß die im Fernmeldeverkehr bestehenden nationalen Dienstleistungsmonopole auch im Lichte des im EWG-Vertrag verankerten Prinzips der Dienstleistungsfreiheit zu überprüfen sind, so wie diese Dienstleistungen ebenso zwangsläufig auch zum Objekt der gemeinschaftlichen und der internationalen Handelspolitik werden. Auch deshalb wird die Entwicklung einer gemeinsamen Telekommunikationspolitik zu einer Aufgabe der Gemeinschaft, der sie sich nicht mehr entziehen kann.

Dazukommen die neuen grundlegenden politischen Ziele der Gemeinschaft, die ihr durch Beschlüsse des Europäischen Rates oder eben durch die Einheitliche Europäische Akte vorgegeben wurden und die in jedem Fall auch das öffentliche Fernmeldewesen der Mitgliedstaaten betreffen:

- die Vollendung des Binnenmarktes bis 1992,
- die Schaffung eines gemeinsamen Informationsmarktes,
- die Verwirklichung eines gemeinsamen Marktes im audio-visuellen Bereich und

- die "Forschungs- und Entwicklungsgemeinschaft", als welche sich die EWG auch in wachsendem Maße verstehen will und verstehen muß.

Diese Zielsetzungen werden von der Wirtschaft der Bundesrepublik wie von der Bundesregierung unterstützt. Es widerspräche den eigenen Interessen, dies nicht zu tun. Vor diesem Hintergrund aber muß gesehen werden, was eine gemeinsame Telekommunikationspolitik bedeuten kann und bewirken soll.

Die Rolle des Fernmeldewesens und der Fernmeldepolitik ist im Hinblick auf die genannten Ziele nicht anders zu beurteilen als die Rolle der gemeinsamen Verkehrspolitik. So wie ein liberaler gemeinsamer Markt des Verkehrs notwendiger Unterbau für den Binnenmarkt der güterproduzierenden und -vertreibenden Wirtschaftszweige ist, so muß ein liberaler gemeinsamer Markt für Dienstleistungen der Telekommunikation als konstituierendes Element des Binnenmarktes aller Wirtschaftsbereiche, ganz besonders aber der Dienstleistungswirtschaft angesehen werden.

Schließlich - und auch das wird mit dem Grünbuch in erfreulicher Deutlichkeit aufgezeigt - muß man sich des Umstands bewußt werden, daß es für die Mitgliedstaaten und auch für ihre Fernmeldeverwaltungen Rechtspflichten aus dem EWG-Vertrag gibt, in deren Geltungsbereich die Telekommunikation gewissermaßen mehr und mehr "hineinwächst". Dazukommt eine nach und nach "einschlägig" werdende Rechtsprechung des Europäischen Gerichtshofes. Folgende Aspekte erscheinen dabei als besonders wichtig, weil rechtsbedeutsam:

- Soweit sie nicht Hoheitsaufgaben wahrnehmen, sind auch Fernmeldeverwaltungen Unternehmen im Sinne der Wettbewerbsbestimmungen des EWG-Vertrages. Das bedeutet, daß sie sich nicht mehr als letzte Instanz hinsichtlich der Frage betrachten können, wo oder wie weit von ihnen Monopolrechte zu beanspruchen sind.

- Als eines der grundlegenden Ziele des Vertrages richtet sich die Dienstleistungsfreiheit auf die Schaffung eines gemeinsamen Marktes für Dienstleistungen. Das bezieht auch Dienstleistungen des Fernmeldeverkehrs mit ein, nachdem sie, wie schon gesagt, zu Handelsgütern geworden sind.

•

- Entscheidungen des Europäischen Gerichtshofes schaffen unmittelbar geltendes Recht. Dies stellt alle Mitgliedstaaten und besonders ihre Fernmeldeverwaltungen vor die Frage, ob sie einen gemeinsamen Markt für die Telekommunikation politisch und konstruktiv entwickeln wollen oder hinnehmen möchten, daß ein solcher Markt durch Entscheidungen des Europäischen Gerichtshofes geschaffen wird.

All dies läßt erkennen, daß das Grünbuch nicht nur als eine mit Fleiß und Sachverstand verfaßte Bestandsaufnahme der zahlreichen politischen, wirtschaftlichen, technischen und rechtlichen Aspekte der Telekommunikation gelesen werden sollte. Es sollte vor allem auch als Absichtserklärung der Kommission verstanden werden, von jetzt an mit der systematischen Entwicklung eines gemeinsamen Marktes für Dienstleistungen und technisches

Gerät der Telekommunikation zu beginnen. Diese Absicht sollte auch die volle Unterstützung des Rates haben.

## II. Zum Kapitel X "Vorschlag für eine Lösung"

### Zu X,1 "Voraussetzung für ein gemeinsames Vorgehen"

Wenn es beim zweiten Spiegelstrich (S. 177) heißt:

"Ordnungspolitische Veränderungen im Telekommunikationsbereich müssen die Überlegungen aller Beteiligten miteinbeziehen, insbesondere der privaten und geschäftlichen Nutzer, der Fernmeldeverwaltungen, der Beschäftigten der Verwaltungen, der Mitbewerber und der Telekommunikations- und Datenverarbeitungsindustrie.",

so ist darauf hinzuweisen, daß eine solche Einbeziehung "aller Beteiligten" bis jetzt wohl noch nicht gegeben ist, also noch organisiert werden müßte. Vor allem käme es auf die Einbeziehung der Benutzer und der bereits aktiven oder potentiellen Anbieter von Dienstleistungen, also künftiger Konkurrenten der Fernmeldeverwaltungen an.

Zum vierten Spiegelstrich:

"Es besteht Einverständnis darüber, daß die Rolle der Fernmeldeverwaltungen bei der Bereitstellung der Netzinfrastruktur im wesentlichen sichergestellt sein muß, damit sie ihren öffentlichen Dienstleistungsauftrag erfüllen können.",

wird bemerkt, daß das hier festgestellte "Einverständnis" wohl in erster Linie auf einer Anerkennung historischer Entwicklungen und damit verknüpfter politischer Realitäten beruht, aber nicht das Ergebnis einer fundierten Analyse der Probleme von Monopol und Wettbewerb auf der Netzebene ist. Sich auf einen "öffentlichen Dienstleistungsauftrag" der Fernmeldeverwaltungen zu beziehen,

ohne Inhalt und Reichweite dieses Auftrages näher zu bestimmen, genügt zur Rechtfertigung des Netzmonopols nicht. Gerade weil man in den USA und in Japan schon weiter gegangen ist, sollte sich die Gemeinschaft um eine Klärung der Aufgaben und der Verpflichtungen bemühen, die den nationalen Netzmonopolen aus europäischer Sicht zukünftig zu stellen sind, um sie politisch und auch rechtlich weiter legitimieren zu können.

Auch beim fünften Spiegelstrich:

"Eine stabile natürliche Grenzlinie zwischen einem "reservierten" Dienstesektor und einem dem Wettbewerb geöffneten Dienstesektor (der insbesondere die Mehrwertdienste einschließen sollte) ist nicht möglich. Aufgrund der technologischen Entwicklung ... kann jede Definition (und Reservierung) eines Basis- oder Grunddienstes nur zeitweilig sein und sollte periodisch überprüft werden, wenn nicht die Gesamtentwicklung der Telekommunikationsdienste behindert werden soll. Es herrscht jedoch in der Praxis Einmütigkeit zwischen den Mitgliedstaaten darüber, daß der herkömmliche Fernsprehdienst ein Basisdienst ist...",

handelt es sich um eine vorschnell gezogene "politische" Folgerung. Während auf der einen Seite betont wird, daß es keine sinnvolle und auf Dauer angelegte Unterscheidung zwischen Basisdiensten und Mehrwertdiensten gibt und dementsprechend auch nicht versucht wird, eine EG-einheitliche Definition aufzustellen, werden beide Begriffe von der Kommission gleichwohl benutzt und obendrein konstatiert, daß der Fernsprehdienst ein "Basisdienst" sei. Damit wird der Schluß verbunden, daß dieser Dienst im Monopol verbleiben müsse oder solle. Ein solcher Schluß kann allenfalls gezogen werden, wenn klargemacht wird, welche Umstände oder Zielsetzungen den Dienst zum Basisdienst machen und inwiefern diese den Ausschluß von Wettbewerb zwingend

verlangen.

Wie im Kapitel VI "Ordnungspolitischer Rahmen", so bleibt auch hier die unterstellte Notwendigkeit, am Doppelmonopol für Netze und Fernsprechdienste festzuhalten, unerklärt.

Zu X,3 "Vorgeschlagene Positionen auf Gemeinschaftsebene"

Mit dem Satz:

"Die Vorschläge konzentrieren sich auf solche Problemkreise, die auf Gemeinschaftsebene für alle Mitgliedstaaten gelöst werden müssen.",

stellt die Kommission ein Prinzip auf, dem generell zugestimmt werden muß: Keine EG-Lösung für Fragen, die ohne weiteres und ohne Schaden auch auf nationaler Ebene geregelt werden können! In zwei Fällen fragt es sich aber, ob die Kommission den Mitgliedstaaten nicht Entscheidungen überläßt, die eher Gegenstand der gemeinsamen Politik sein sollten, wenn ein gemeinsamer Markt für Telekommunikation entstehen soll:

- Unbeschadet des Votums, am Netzmonopol festzuhalten, soll es einzelnen Mitgliedstaaten möglich sein, "liberalere Systeme" zu wählen, also konkurrierende Netze zuzulassen.
- Ebenso soll es Sache der Mitgliedstaaten bleiben, wie und mit welchen Mitteln der Wettbewerb zwischen Wähl- und Festverbindungen reguliert wird, um die Erträge aus den nationalen Fernsprechmonopolen zu sichern.

Die erste Position, die möglicherweise mit Rücksicht auf Großbritannien eingenommen werden muß, bedeutet, daß die EG de facto gar nicht für die Beibehaltung der Netzmonopole eintritt, sondern Monopol und Wettbewerb im Netzbereich als Optionen behandelt. Das wird von Unternehmen, die in anderen Ländern bereits als konkurrierende Netzbetreiber tätig sind, zweifellos mit Interesse vermerkt werden. Auch hier macht sich bemerkbar, daß eine überzeugende Begründung für das Netzmonopol, die aus einer klaren Darstellung der Aufgaben abgeleitet werden müßte, die Netzbetreibern im Rahmen der Politik der Gemeinschaft zu stellen wären, fehlt. Es fehlt damit auch das überzeugende Gegenmodell, das man etwa den USA entgegenhalten könnte, wenn von dort auch die Schaffung eines Marktes für Netzträgerleistungen verlangt würde.

Zur Problematik Wählverbindungen/Festverbindungen heißt es (auf S. 185 f), sowohl Verbotsregelungen zum Ausschluß des Wiederverkaufs von Sprachdiensten als auch deren Unterbindung durch eine nutzungszeitabhängige Tarifierung "müßten in der Gemeinschaft akzeptiert werden". Das hieße aber, daß in einzelnen Mitgliedstaaten Nutzungen von Mietleitungen verboten blieben, die in anderen immerhin zulässig wären. Das ist vom Standpunkt der Gemeinschaft so wenig zu akzeptieren, wie es von Dienstleistungsanbietern und Nutzern akzeptiert werden kann. Wenn die Kommission in der "Akzeptanz klarer Verpflichtungen durch die Fernmeldeverwaltungen bezüglich des Anschlusses und des Netzzugangs für Anbieter grenzübergreifender Dienste" eine der "wesentlichen Änderungen" sieht, die auf Gemeinschaftsebene durch eine gemeinsame Politik herbeigeführt werden müssen (S. 185 oben), so muß hinzugefügt werden,

1. daß sich die nationalen Netze nicht nur für die

Anbieter von zwischenstaatlichen Telekommunikationsdiensten, sondern generell öffnen müssen, wenn ein echter Binnenmarkt auf diesem Gebiet entstehen soll, und

2. daß die Fernmeldeverwaltungen ebenso durch Gemeinschaftsrecht verpflichtet werden müssen, Festverbindungen überall zu Bedingungen zu überlassen, die eine markt- und wettbewerbsgemäße Nutzung ermöglichen.

Die Kommission hält, was den zweiten Punkt betrifft, Beschränkungen jedoch für gerechtfertigt, sofern sie "auf ein legitimes Niveau des Schutzes der finanziellen Lebensfähigkeit (der Netzbetreiber) begrenzt" bleiben. Das klingt einleuchtend, macht aber ein weiteres Mal darauf aufmerksam, wie unscharf die Begriffe sind, mit denen Netz- oder Fernsprechmonopol jeweils verteidigt werden. "Finanzielle Lebensfähigkeit" ist jedenfalls etwas anderes als die an anderer Stelle vorgebrachte "Sicherung der Investitionskraft", d.h. der Finanzierung von Investitionen, deren Art und Umfang womöglich vorrangig politisch vorgegeben wurde. Weil die Antwort auf die Frage, was eigentlich jeweils mit Hilfe einer am Fernsprechtarif orientierten nutzungszeitabhängigen Tarifierung geschützt werden soll, nicht zuletzt durch politische Vorgaben bestimmt wird, geht die Vermutung der Kommission, die Gebührenpolitik der Fernmeldeverwaltungen bei Festverbindungen lasse sich durch eine wettbewerbsrechtliche Mißbrauchsaufsicht unter Kontrolle halten, am Kern des Problems vorbei.

Unter den anzustuernden "wesentlichen Änderungen" wird nicht erwähnt, daß sich die Gemeinschaft umgehend

auf das Prinzip einigen sollte, daß in jedem Fall alle Dienste der nicht-sprachlichen Kommunikation in den Wettbewerb gehören. Es genügt nicht, daran zu erinnern, daß bei der Festlegung "reservierter" Dienste restriktiv verfahren werden sollte. Zu fordern ist vielmehr eine klare wettbewerbsorientierte Grundsatzentscheidung auf Gemeinschaftsebene. Statt im Netzbereich den Mitgliedstaaten die Wahl zwischen Monopol und Wettbewerb zu lassen, muß diese Option an erster Stelle in bezug auf den Fernsprehdienst offengehalten werden.

Zu X,4.2 "Einleitung neuer Aktionslinien"

Zur Aktionslinie I:

Für ein "Europäisches Institut für Telekommunikationsnormen" mag es einen Bedarf geben. Wenn sich ein solches Institut allerdings zum Instrument einer falsch verstandenen europäischen Industriepolitik entwickeln kann, das statt auf nationaler auf EG-Ebene nichttarifäre Handelshemmnisse "schöpft", sollte man eine derartige Einrichtung nicht ins Leben rufen.

Zur Aktionslinie II:

Das Prinzip des offenen Netzzugangs muß aus gesamtwirtschaftlichen Gründen wie aus der speziellen Sicht der Dienstleistungsanbieter und Nutzer entschieden unterstützt werden. Es sollte umgehend und konsequent in Richtung einer praxisnahen und marktwirksamen Realisierung ausgearbeitet werden. ONP schafft die Voraussetzungen dafür, trotz Netzmonopol "flächendeckende" Wettbewerbsmärkte für alle Dienstleistungen der Telekommunikation zu verwirklichen. ONP ist insofern u.E.

auch das einzige Gegenmodell zum Netzwettbewerb, das überzeugen kann und auf das sich die Gemeinschaft auch in ihrem fernmeldepolitischen Dialog mit den USA wird stützen müssen.

Zur Aktionslinie III:

Der Vorschlag, gemeinsame Dienste zu entwickeln, die "europaweit flächendeckend" verfügbar sind, bezieht sich auf herkömmliche Fernmeldedienste, auf Mehrwertdienste unbestimmten Charakters und auf Informationsdienste. Dies zeigt, daß auch der Dienstbegriff sehr unterschiedliche Tatbestände abdeckt. Unklar bleibt hier aber vor allem, was mit "europaweit flächendeckender" Verfügbarkeit gemeint ist: nur die schlichte Möglichkeit, einen bestimmten Dienst überall zu nutzen, oder aber seine Nutzung zu einem EG-Einheitstarif?

Etwaige Bestrebungen, die nationalen Versorgungsphilosophien durch eine "europäische Gemeinwirtschaftlichkeit" zu ersetzen oder auch zu überhöhen, müssen rechtzeitig zurückgewiesen werden. Der Beitrag, den die Telekommunikation "auf dem Wege zu einer dynamischen europäischen Volkswirtschaft" - siehe den Obertitel des Grünbuchs! - zu leisten hat, verlangt eine konsequente Entscheidung für den europaweiten Wettbewerb. In diesem Wettbewerb müssen alle Anbieter einschließlich der Fernmeldeverwaltungen angebots- und preispolitisch konsequent marktorientiert arbeiten können.

Auch unter dem Aspekt der "europaweiten" Verfügbarkeit sind die wesentlichen Forderungen zunächst von der auf EG-Ebene zu koordinierenden Infrastrukturpolitik zu erfüllen und an die Träger der nationalen Netzmonopole zu richten.

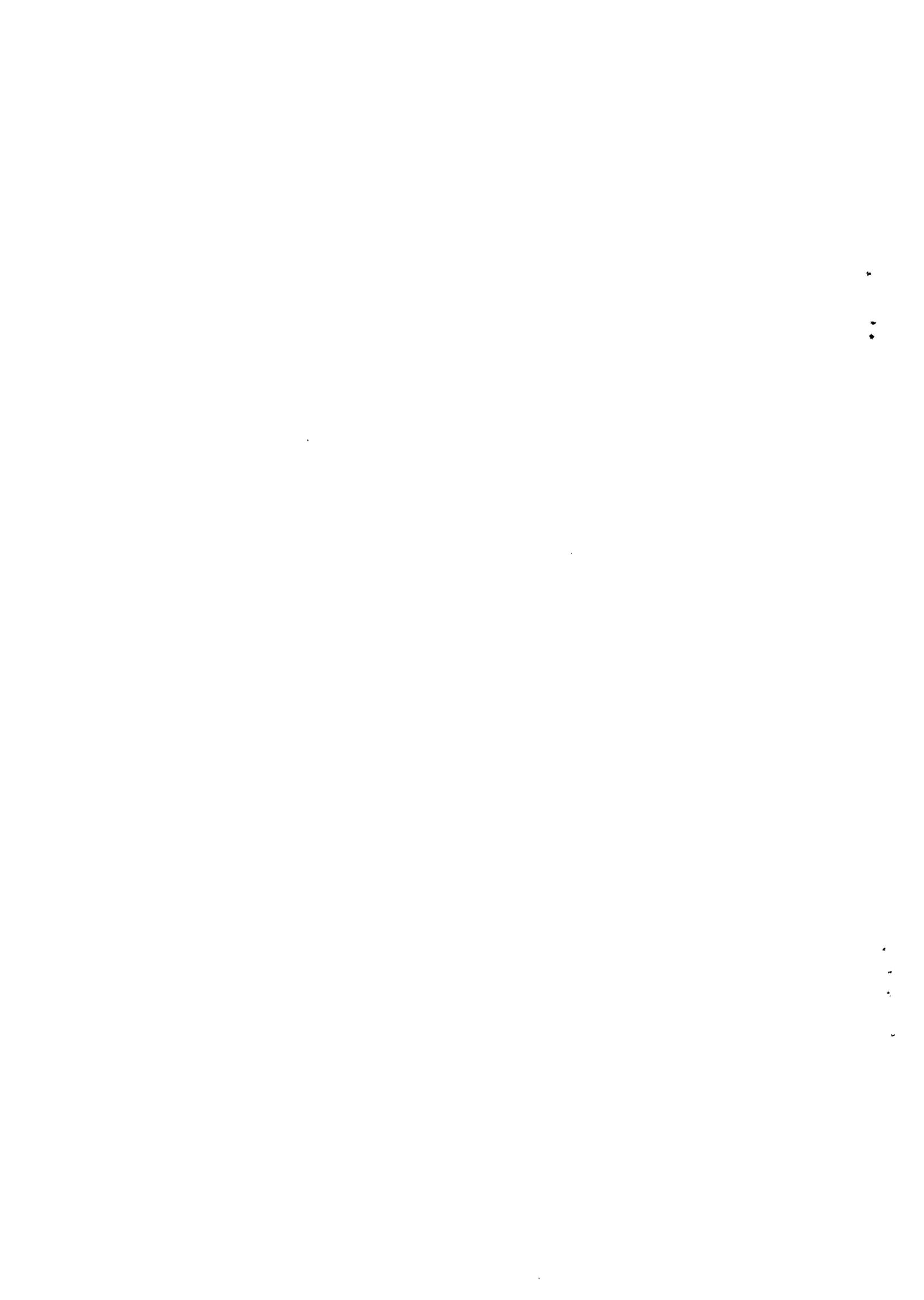
Zur Aktionslinie V:

Vor allem für die Uruguay-Runde des GATT sowie für den weiteren handels- und fernmeldepolitischen Dialog mit den USA und mit Japan muß die EG eine gemeinsame Politik entwickeln. Dafür ist ein eigenes, und zwar klares und liberales Konzept für den eigenen Markt eine unabdingbare Voraussetzung. Es muß der Situation und weiteren Entwicklung in den USA unter wettbewerbs- und handelspolitischen Gesichtspunkten ebenbürtig sein, ohne die US-amerikanischen Entwicklungen einfach zu kopieren. Es hieße, zweite oder gar dritte Schritte vor dem ersten zu tun, wenn man in der Gemeinschaft alle überkommenen Aufgabenteilungen, so vor allem die zwischen fernmeldetechnischer Industrie auf der einen Seite und staatlichen Fernmeldeverwaltungen auf der anderen Seite überspringen wollte, um auch in Europa möglichst viele Telekommunikationsunternehmen nach dem Muster von AT & T oder auch NTT entstehen zu lassen. Die in der Telekommunikation zu aktivierende Wettbewerbsdynamik muß an erster Stelle im Interesse der europäischen Anwender entfaltet werden, nicht aber, um Unternehmen, die unter ganz anderen historischen Voraussetzungen auf dem Feld der Telekommunikation groß geworden sind, in Europa die gleichen Entwicklungschancen zu bieten, wie sie sie von ihren Heimatländern her kennen.

Fraglich ist allerdings, ob die Gemeinschaft in die entsprechenden Verhandlungen mit einem überzeugenden Konzept eintritt, wenn sie am Fernsprechmonopol festhält und ihren Mitgliedstaaten darüber hinaus freistellt, wie sie die Nutzung von Festverbindungen behandeln wollen. Eine glaubwürdige Rolle wird die Gemeinschaft bei den Verhandlungen über die Liberalisierung der

Dienstleistungen nur spielen können, wenn sie, gestützt auf das ONP-Prinzip, ihren eigenen Markt für Dienstleistungen der Telekommunikation konsequent wettbewerbsorientiert gestaltet und auch Dienstleistungsanbietern aus Drittländern öffnet.

10. September 1987



Zum Grünbuch der EG-Kommission "Über die Entwicklung des gemeinsamen Marktes für Telekommunikationsdienstleistungen und Telekommunikationsgeräte"

Anmerkungen zu Kapitel VI: "Konzept eines ordnungspolitischen Rahmens, zu dem hin sich die gegenwärtigen Entwicklungstendenzen entwickeln könnten"

I. An den Anfang des Kapitels stellt die Kommission einen Überblick über die derzeitigen Verhältnisse in den Mitgliedstaaten, aus dem sich ergibt, daß diese - etwa in bezug auf den Verbund oder die Selbständigkeit von Post- und Fernmeldewesen oder hinsichtlich der Trennung hoheitlicher und betrieblicher Aufgaben im Fernmeldeverkehr - sehr unterschiedlich sind, daß aber überall eine Neuordnung diskutiert wird oder schon im Gange ist und daß insofern "gewisse konvergierende Tendenzen in Richtung auf folgende Ziele zu erkennen" seien:

- " - Öffnung der Endgerätemärkte für den Wettbewerb,
- Entstehung eines wettbewerbsorientierten Markts für Mehrwertdienste,
- Trennung zwischen hoheitlicher und betrieblicher Funktion,
- Beibehaltung der gesetzlichen Monopole (bzw. Duopole) für die Bereitstellung der Netzinfrastruktur und einer begrenzten Anzahl von Grunddiensten,

- stärkere Ausrichtung der Gebühren für diese Dienste an den tatsächlichen Kosten." (S. 59)

Dies ist ohne Zweifel richtig und auch nicht erstaunlich, weil man überall mit den gleichen Konsequenzen der informations- und kommunikationstechnischen Entwicklungen einerseits und der Entwicklung, welche die Kommunikationsbedürfnisse im nationalen und internationalen Wirtschaftsverkehr nehmen, andererseits konfrontiert ist.

Die Kommission zieht daraus den Schluß, daß die Gemeinschaft dadurch die "Chance" erhalte, "einen gemeinsamen ordnungspolitischen Rahmen zu schaffen, aus dem heraus sich rasch ein gemeinsamer Telekommunikationsmarkt entwickeln kann." (S. 60)

Dem ist grundsätzlich zuzustimmen. Zu fragen wäre allenfalls, ob es statt "Chance" nicht schon "Notwendigkeit" heißen müßte.

Die Kommission geht aber auch weiter und erklärt:

"Die Gemeinschaft hat die Pflicht, dafür zu sorgen, daß während dieses Neuordnungsprozesses zwischen den Mitgliedstaaten keine neuen Hindernisse für den Handel mit Gütern und Dienstleistungen errichtet und die bestehenden Hindernisse abgebaut werden. Sie sollte die derzeitigen Veränderungen als eine Gelegenheit nutzen, die Entwicklung eines einzigen gemeinschaftsweiten Markts für Telekommunikationsausrüstung und -dienste voranzutreiben." (S. 60)

Auch an dieser Verpflichtung ist nicht zu zweifeln.

Sie besteht im Grunde für die Mitgliedstaaten ebenso wie für die Organe der Gemeinschaft. Um das zu erkennen, genügt es, sich zu vergegenwärtigen, in welchem Maße nationale Fernmeldeverwaltungen durch Investitionsentscheidungen, durch Zulassungsverfahren oder -praktiken usw. "Politik gegen die Gemeinschaft" betreiben können. Damit wird aber schon gegen Art. 5 EWGV verstoßen, der die Mitgliedstaaten verpflichtet, "alle Maßnahmen zu unterlassen, welche die Verwirklichung der Ziele des Vertrages gefährden könnten". Zu diesen Zielen gehört seit dem Inkrafttreten der Einheitlichen Europäischen Akte auch die Schaffung des EG-Binnenmarktes bis 1992.

Der "gemeinsame Telekommunikationsmarkt" als Ziel einer neuen Gemeinschaftspolitik ist ein Teil dieses Binnenmarktkonzepts, hat seinerseits aber mehrere Aspekte. Die Kommission stellt für die von ihr angestrebte "gemeinsame Telekommunikationspolitik" folgende Ziele, die sie die "wichtigsten" nennt, auf:

- " - die Schaffung eines gemeinsamen Markts für Telekommunikationsendgeräte,
  - die Schaffung eines gemeinsamen Markts für Telekommunikationsdienste,
  - die Schaffung eines gemeinsamen Markts für Netzeinrichtungen, die Bestandteil der Telekommunikationsinfrastruktur sind."
- (S. 58)

Dem folgt auch der weitere Aufbau des Kapitels VI. Es ist aber zu beachten, daß es bei den Diensten

um Ziele und auch Probleme geht, die eine andere Qualität haben als jene Ziele und Probleme, die mit der Verwirklichung eines gemeinsamen Marktes für Telekommunikationstechnik verbunden sind. Bei den Diensten kommt zusätzlich zu den wettbewerbs- und den handelspolitischen Bestimmungen des EWG-Vertrages, die auch für die Märkte der Telekommunikationstechnik bedeutsam sind, die Forderung des Vertrages nach Verwirklichung der Dienstleistungsfreiheit hinzu, die sich als die Verpflichtung zur Schaffung eines gemeinsamen Marktes für Dienstleistungen jeglicher Art, also auch des Fernmeldeverkehrs interpretieren läßt.

Allein dies rechtfertigt bereits, der Entwicklung einer gemeinsamen Politik in bezug auf die Ordnung der Märkte für Telekommunikationsdienste ein besonderes Gewicht beizumessen. Darüber hinaus bedarf es auch - was die Kommission in diesem Sinne nicht zum Ausdruck bringt - einer gemeinsamen Infrastrukturpolitik, ohne die gemeinsame Märkte für Telekommunikationstechnik und -dienste Stückwerk bleiben dürften.

## II. Gemeinsamer Markt für Fernmeldetechnik

Den "gemeinsamen Endgerätemarkt" sieht die Kommission heraufziehen, weil in allen Mitgliedstaaten bereits eine Tendenz bestehe, auch die nationalen Märkte "allmählich vollkommen für den Wettbewerb zu öffnen". Je mehr sich in Zukunft ISDN-fähige und multifunktionale Endgeräte durchsetzen, desto mehr werde die Freigabe des Marktes für den Wettbewerb ohnehin "unausweichlich".

Die Kommission befürwortet ein gemeinsames und "synchrones" Vorgehen zur Öffnung des Endgerätesek-

tors für den Wettbewerb und verweist einmal auf die Bestimmungen des EWG-Vertrages über den freien Warenverkehr und den Abbau staatlicher Handelsmonopole, zum anderen auf einige bereits getroffene Entscheidungen im Bereich der Normung und der gegenseitigen Anerkennung von Allgemeinzulassungen, die zu den notwendigen Schritten bei der Errichtung eines gemeinsamen Marktes für Endgeräte gehören.

Sie spricht sich dann weiter dafür aus,

- die Fernmeldeverwaltungen am Wettbewerb auf dem Endgerätemarkt der Gemeinschaft teilnehmen zu lassen,
- den Übergang zu diesem "gemeinschaftsweiten wettbewerbsorientierten Endgerätemarkt erheblich zu beschleunigen." (S. 62).

Die erste Empfehlung entspricht der Grundhaltung, die sich zur staatlichen Marktbeteiligung auch in der bundesrepublikanischen Diskussion herausgebildet hat. Auf Gemeinschaftsebene kommt aber eine neue Dimension hinzu, die sich in die Frage kleiden läßt: Wieweit treffen die nationalen Fernmeldeverwaltungen als Anbieter von Endgeräten auf einem gemeinsamen Markt eigentlich unter gleichen Wettbewerbsbedingungen aufeinander?

Das wird im Grünbuch nicht behandelt. Die Kommission ist darum zu fragen, ob sie sich auch aufgerufen fühlt, neben der Öffnung der Märkte eine Klärung der Wettbewerbsvoraussetzungen zu betreiben.

Der Beschleunigung der Marktöffnung wird man zustimmen

können, wenn sichergestellt ist, daß sie nicht nur formal erfolgt, sondern tatsächlich in allen Mitgliedstaaten zur effektiven Öffnung der Märkte führt, nicht zuletzt jener Teilmärkte, die die nationalen Fernmeldeverwaltungen über ihre eigene Beschaffungspolitik kontrollieren.

Zum "gemeinsamen Markt für Netzeinrichtungen und Geräte, die Bestandteil der Infrastruktur sind" oder kurz: für Netztechnik rechnet die Kommission das vielzitierte Beispiel vor, daß sich die Entwicklung eines neuen öffentlichen und digitalen Vermittlungssystems nur noch rentieren könne, wenn es einen Anteil am Weltmarkt von mindestens 8 v.H. erringe. Keiner der nationalen Märkte in der Gemeinschaft habe aber einen größeren Anteil als 6 v.H. Diese Lücke verlange 1. die grenzüberschreitende Zusammenarbeit in der europäischen Fernmeldeindustrie und 2. "liege es nun an den Fernmeldeverwaltungen, bei der Vergabe von öffentlichen Lieferaufträgen nicht mehr nur inländische Angebote (zu) berücksichtigen, sondern zu Ausschreibungsverfahren auf europäischer Ebene überzugehen." (S. 92)

Die Darstellung der Probleme wie die vorgeschlagene "Lösung" sind zu einfach, schon deshalb, weil die Voraussetzung nicht stimmt, daß derartige Entwicklungsarbeiten von den betreffenden Unternehmen nur aus eigener Initiative, auf eigenes Risiko und ohne Abstimmung mit den Infrastrukturplanungen ihrer nationalen Fernmeldeverwaltungen in Angriff genommen würden. Es kann gerade dieses abgestimmte Vorgehen sein, daß zu einem überdimensionierten Entwicklungsaufwand und zur Schaffung von Systemen führt, für die es keinen ausreichenden Markt gibt,

und zwar auch nicht auf Gemeinschaftsebene. Es fragt sich, ob das Problem nicht eher darin wurzelt, daß schon die nationale Politik zur Weiterentwicklung der Netze "zu eng" ist, weil auf das Territorium beschränkt, für das die nationalen Fernmeldeverwaltungen jeweils zuständig sind.

Anders gefragt: Bedarf es nicht einer gemeinsamen Politik zum Ausbau und zur Modernisierung der bestehenden Netze sowie erst recht zur Einführung neuer Netze, wenn man einen gemeinsamen Markt für Netztechnik schaffen will, der die Entwicklungsrisiken für die fernmeldetechnische Industrie in Europa kalkulierbar hält?

Zu einer gemeinsamen Infrastrukturpolitik gibt es Ansätze. Der wichtigste ist vermutlich die auf Gemeinschaftsebene getroffene Entscheidung zur Einführung des ISDN. Eine gemeinsame Infrastrukturpolitik auf dem Gebiet der Telekommunikation wird aber vermutlich noch systematischer entwickelt werden müssen. Sonst wiederholt sich hier, was im Verkehr, und zwar im Schienenverkehr soeben vorexerziert wird, wo einzelne Mitgliedstaaten Schnellbahnstrecken bauen und für diese moderne Züge entwickelt werden, die nur auf dem jeweils nationalen Netz einzusetzen sind.

### III. Gemeinsamer Markt für Telekommunikationsdienste

Anknüpfend an die Darstellung der informations- und kommunikationstechnischen Entwicklung in Kapitel IV und der wirtschaftlichen Aspekte in Kapitel V des Grünbuches stellt die Kommission hier eingangs

fest, das über ein Fernmeldenetz "immer mehr Dienste unabhängig vom Netzbetreiber angeboten werden" können, so daß Dienstleistungen der Telekommunikation (ausgenommen die eigentliche Übertragungsleistung) zu Handelsgütern werden.

Die Kommission erwähnt, daß die Diskussion in den Mitgliedstaaten bis jetzt noch stark von den Begriffen Grunddienste versus Mehrwertdienste bestimmt wird, daß es aber nirgends und schon gar nicht auf Gemeinschaftsebene eine klare, von allen akzeptierte Definition gibt (siehe dazu auch die Ausführungen in Kapitel V des Grünbuchs). Weil "sich die Grenzen zwischen Mehrwertdiensten und Grunddiensten zusehends verwischen, und eine dauerhafte natürliche Unterscheidungsmöglichkeit nicht gegeben ist", formuliert sie ihre eigene Ansicht schließlich wie folgt:

"In Zukunft wird nur noch die Einteilung der Dienste in solche, die vorläufig noch den Fernmeldeverwaltungen vorbehalten bleiben können ("reservierte Dienste"), und solche, die Gegenstand eines offenen Wettbewerbs sind ("Wettbewerbsdienste"), die relevante Unterscheidung darstellen." (S. 65)

Dem fügt sie wenig später hinzu, daß schon heute nur noch der Fernsprehdienst als "reservierter Dienst" in Betracht zu ziehen sei. Der Telexdienst, der andere "klassische" Monopoldienst, verschmelze "rapide" mit anderen Text- und Datendiensten. Außerdem wird auf das Urteil des Europäischen Gerichtshofes vom 20.3.85 gegen British Telecom hingewiesen, mit dem der Betrieb von Telexagenturen

ausdrücklich anerkannt worden sei.

Besonderes Interesse verdient in diesem Zusammenhang der Abschnitt IV. 1.2 auf S. 64, in welchem die Kommission für eine "enge Auslegung des Prinzips der Gewährung ausschließlicher Rechte", d.h. von Monopolrechten bei Diensten eintritt, und zwar nicht aus technischen oder wirtschaftspolitischen, sondern aus juristischen Gründen. Dies wird aus den Wettbewerbsbestimmungen des EWG-Vertrages abgeleitet, an erster Stelle aus Art. 90 Abs.1 und 2 EWGV. Denn danach gelten die Wettbewerbsbestimmungen des Vertrages auch für Unternehmen, die "mit Dienstleistungen von allgemeinem wirtschaftlichen Interesse betraut sind", ein Fall, der auf die Fernmeldeverwaltungen zutrifft, die vom Wettbewerbsrecht im übrigen auch als Unternehmen angesehen werden. Zurückstehen müssen die Wettbewerbsbestimmungen nur dann, wenn ihre Anwendung "die Erfüllung der (jenen Unternehmen) übertragenen besonderen Aufgaben rechtlich oder tatsächlich verhindern" würde.

Was hier mit dem Blick auf das vom EWG-Vertrag gesetzte Wettbewerbsrecht erklärt wird, läßt sich im übrigen ebenso bezüglich des Prinzips der Dienstleistungsfreiheit (Art. 59 EWGV) feststellen. Auch diese darf nur eingeschränkt werden, wenn es durch übergeordnete Allgemeininteressen gerechtfertigt werden kann. Auch dies ist durch die Rechtsprechung des EuGH erhärtet.

Wesentlich sind die Folgerungen, die die Kommission daraus zieht, nämlich:

- Die Gründe für die Aufrechterhaltung eines Dienstmonopols müssen sorgfältig gegen die Einschränkungen abgewogen werden, die anderen, den Benutzern oder Anbietern von Dienstleistungen, auferlegt werden.
- Der Begriff des Dienstleistungsmonopols ist grundsätzlich eng auszulegen.
- Die "technologisch bedingte fortschreitende Dienstintegration" macht es erforderlich, bestehende Dienstleistungsmonopole regelmäßig zu überprüfen.

Als Ergebnis der eigenen Überprüfung ist die Kommission, wie erwähnt, zum Fernsprechmonopol gelangt.

In der Zusammenfassung des Abschnitts (S. 66) drückt sie sich aber trotzdem vorsichtig aus, indem sie schreibt:

"Soweit sich ein Dienstleistungsmonopol derzeit mit der Notwendigkeit rechtfertigen läßt, die finanzielle Lebensfähigkeit der Fernmeldeverwaltungen abzusichern, dürfte der einzige Dienst, der dafür in Frage kommt, der Fernsprechdienst (Sprachübertragung) sein."

Ob hier auch ein juristisch begründeter Zweifel anklingt - sind Fernmeldemonopole als Finanzmonopole zu legitimieren? - bleibt offen.

Festzuhalten ist dies:

1. Die Unterscheidung zwischen Grunddiensten und Mehrwertdiensten beruht auf politischen Gesichtspunkten, die der Zuordnung der Dienste zum Monopol oder zum Wettbewerbsbereich dienen

sollen.

2. Diese Unterscheidung ist in jedem Fall instabil. Sie wird durch die technische Entwicklung überholt und ist nicht eo ipso mit dem Gemeinschaftsrecht vereinbar.

Im folgenden Abschnitt 4.2 "Auf dem Weg zu einem wettbewerbsorientierten gemeinsamen Markt" greift die Kommission auf, daß Telekommunikationsdienste durch den Gang der Technik "handelsfähig" geworden sind, daß sie infolgedessen auch von einem Anbieter im Mitgliedstaat A) Kunden in den übrigen Mitgliedstaaten B, C, ...angeboten werden können, womit für Telekommunikationsdienste der Fall des Art. 59 EWGV eintritt, der generell die Aufhebung der Beschränkungen des freien Dienstleistungsverkehrs über die Grenzen hinweg vorsieht. Auch in diesem Fall gilt, daß Ausnahmeregelungen möglich, aber restriktiv zu handhaben sind. Darauf, so die Kommission, werde im Konfliktfall auch der Europäische Gerichtshof bestehen. Diese Warnung ist berechtigt. Die Dienstleistungsfreiheit gehört neben der Freizügigkeit der Güter und Personen, der Arbeitnehmer und des Kapitals sowie zusammen mit der Niederlassungsfreiheit zu den konstituierenden Prinzipien der EWG.

Die Kommission macht darauf aufmerksam, daß sich die Konfliktfälle begrenzen ließen, wenn die Mitgliedstaaten

- "bezüglich der Dienste, die Gegenstand von Monopolrechten sein können, von vergleichbaren

Definitionen ausgingen, und wenn

- die vorbehaltenen Dienste restriktiv definiert" würden. (S. 68)

Nicht hier, aber an späterer Stelle schlägt die Kommission vor, nur noch an einem Monopoldienst festzuhalten, am Fernsprechdienst. Was mit einer solchen Entscheidung noch nicht entschieden wäre, ist aber die Frage, wie frei die Mitgliedstaaten hinsichtlich der Bestimmung der mit dem Fernsprechmonopol auf nationaler Ebene zu verfolgenden Ziele und hinsichtlich seiner praktischen Handhabung sein sollen. Hier werden die "Gründe" für das Monopol berührt, deren Abwägung gegen die beizubehaltenden Einschränkungen die Kommission mit Recht verlangt. Kann es den Mitgliedstaaten überlassen bleiben, sich diese Gründe jeweils nach eigenem Gusto zurecht zu legen?

Ein gemeinsamer Markt für Telekommunikationsdienste, der sich auf der Basis nationaler Gebietsmonopole, nämlich der Netzmonopole der nationalen Fernmeldeverwaltungen entfalten soll, hat von vornherein mit Schwierigkeiten zu rechnen. Weil das so ist, fordert die Kommission, daß "sich die Gemeinschaft auf gemeinsame Grundsätze bezüglich der allgemeinen Bedingungen für die Bereitstellung der Netzinfrastruktur für Benutzer und Anbieter von wettbewerbsbestimmten Diensten, insbesondere im grenzüberschreitenden Fernmeldeverkehr, einigen" müssen. (S. 69) Sie schlägt die Bereitstellung einer "offenen Netzinfrastruktur (open network provision ONP)" vor, wozu durch EG-Richtlinie die technischen Schnittstellen,

Gebührengrundsätze und etwaige Nutzungsbeschränkungen näher bestimmt werden sollten.

Die Kommission nimmt damit den Gedanken auf, daß Fernmeldenetze heute als "öffentliche Verkehrswege" betrieben werden können und daß die Betreiber der Netze, also die staatlichen Fernmeldeverwaltungen, die größten Weiterverkäufer von Fernmeldediensten sind. Mit dem ONP-Prinzip wird auch anerkannt, daß es nicht notwendig ist, konkurrierende Infrastrukturen zu schaffen, nur um einen wettbewerbsorientierten Dienstleistungsmarkt zu verwirklichen. Unklar bleibt, weshalb das Fernsprechmonopol erhalten bleiben sollte, wenn das Fernsprechnet als "offenes Netz" zur Verfügung stünde, und jeder Dienstleistungsanbieter, der dieses nutzt, nach gleichen Gebührengrundsätzen zur Finanzierung der Aufgaben herangezogen würde, die der Netzträger zu erfüllen hat.

Weil das ONP-Prinzip technisch realisierbar geworden ist, stellt sich überdies die Frage, welche rechtlichen Folgen es hätte, wenn die nationalen Netze nicht für andere Dienstleistungsanbieter geöffnet würden.

Im Abschnitt 4.3 (S. 70) wendet sich die Kommission den Fernmeldeverwaltungen und ihren Aufgaben näher zu, weil "die Entstehung eines wettbewerbsorientierten Dienstleistungssektors und die Notwendigkeit, die Fernmeldenetze auch anderen Anbietern von Diensten zu fairen Bedingungen zugänglich zu machen, ... die künftige Tätigkeit der Fernmeldeverwaltungen nachhaltig beeinflussen" werde. Die Kommission hält es für wichtig, daß die Verwaltungen auf

diesem wettbewerbsorientierten gemeinsamen Markt  
"eine starke Stellung" einnehmen.

Indessen fordert sie

- den schrittweisen Abbau noch vorhandener Monopolrechte bei bestimmten Endgeräten (S. 73),
- und die Trennung der von den Fernmeldeverwaltungen wahrgenommenen hoheitlichen und betrieblichen Funktionen. (S. 74)

Letzteres sei eine wesentliche Voraussetzung für eine wirksame Anwendung der Wettbewerbsregeln auf die Anbieter von Telekommunikationsdiensten.

Als die eigentliche Aufgabe der Fernmeldeverwaltungen werden damit die Bereitstellung und der Betrieb der Fernmeldeinfrastruktur angesprochen. Abgesehen von Großbritannien ist dies noch in allen Mitgliedstaaten Monopolen vorbehalten, und die Kommission sieht auch keine Gründe, dies prinzipiell in Frage zu stellen. Sie verweist zwar ein weiteres Mal auf das Wettbewerbsrecht des Vertrages und meint, auch in bezug auf den Betrieb von Fernmeldenetzen müssten Ausschließlichkeitsrechte restriktiv gehandhabt werden. "Neu entwickelte Techniken in Nachbarbereichen, etwa des Satellitenfunks, des Mobilfunks und des Kabelfernsehens, erfordern eine spezielle Betrachtung." (S. 73) Im übrigen zieht sie jedoch vor allem aus einem Vergleich mit den USA den Schluß, daß regionale bzw. nationale Netzmonopole in Europa

weiter bestehen werden:

"Angesichts der geringeren Dimension der einzelnen Länder in Europa, der Zielsetzungen des öffentlichen Diensterversorgungsauftrages, der aus wirtschaftlichen Gründen erforderlichen economies of scale und des notwendigen Kompromisses zwischen mehr Flexibilität durch Wettbewerb auf der einen Seite und höheren Transaktionskosten als mögliche Folge des Nebeneinanders mehrerer Netze auf der anderen Seite, ist mit einer gleichgerichteten Entwicklung in den Mitgliedstaaten in Richtung auf die Beibehaltung des Prinzips der alleinigen Zuständigkeit einer einzigen Fernmeldeverwaltung...für die Bereitstellung der Netzinfrastuktur zu rechnen."  
(S. 72)

Das ist allerdings eine Feststellung, die sich einfach auf die gegebenen Haltungen der Mitgliedstaaten stützt, ohne weiter zu untersuchen, wie fest begründet diese sind. Der Satz: "Keine einzige Fernmeldeverwaltung in der Gemeinschaft ist größer als irgendeine der 7 regionalen Holdinggesellschaften in den USA, die nach wie vor ein Monopol auf den Betrieb ihrer jeweiligen Netzinfrastuktur haben." trifft zwar zu, beantwortet aber nicht die Frage, wieso für die Gemeinschaft nicht tauglich sein sollte, was im US-Fernverkehr praktiziert wird, nämlich Netzettbewerb. Dieser Punkt wird nicht erörtert. Verlangt wird etwas anderes: daß die nationalen Netzmonopole in der Gemeinschaft klare Verpflichtungen bezüglich des Anschlusses und des Netzzuganges für Dienste akzeptieren, die die Grenzen der Monopolnetze überschreiten. Ein weiteres Mal ist damit das ONP-Prinzip angesprochen.

Zur Frage "Monopol oder Wettbewerb auf der Netzebene?"

hätte man sich eine ausführlichere Behandlung der Problematik gewünscht. Gründe für die Beibehaltung der nationalen Netzmonopole werden eigentlich nicht genannt. Wenn es heißt:

"Gleich, welches organisatorische Prinzip die Mitgliedstaaten für den Betrieb ihrer Netzinfrasturktur durch ihre Fernmeldeverwaltungen wählen - kurzfristig und langfristig sollte auf jeden Fall die Integrität der Netzinfrasturktur gewahrt bleiben.

Die Mitgliedstaaten sollten sicherstellen, daß die Fernmeldeverwaltungen leistungsstarke nationale, gemeinschaftsweite und weltweite Kommunikationsdienste gewährleisten." (S. 73),

so werden Zielsetzungen angeführt, die über ein Monopol verfolgt werden können, dieses aber nicht unbedingt voraussetzen. Erst mit dem Satz auf S. 75:

"Alle Mitgliedstaaten scheinen sich darin einig zu sein, daß die finanzielle Lebensfähigkeit der Fernmeldeverwaltungen gesichert werden muß."

und der Fortsetzung:

"Die größte und unter den gegebenen Umständen einzig wirkliche Gefahr besteht darin, daß den öffentlichen Vermittlungsnetzen möglicherweise die Einnahmen aus den Sprachdiensten verlorengehen, die zur Zeit 85 - 90 % der Gesamteinnahmen aus dem Fernmeldeverkehr ausmachen."

kommt man zum springenden Punkt. Die apostrophierte Gefahr ist natürlich die des cream skimming, die ihrerseits die Konsequenz der Verpflichtung des staatlichen Anbieters ist, "Grunddienste universell", d.h. flächendeckend und zu Einheitsgebühren anzubie-

ten.

Die Kommission diskutiert die in den Mitgliedstaaten erwogenen oder angewandten Lösungen dieses Problems, vom strikten Verbot des bloßen Wiederverkaufs der Sprachkapazität von Mietleitungen bis zur nutzungszeitabhängigen Tarifierung. Weder den einen noch den anderen Ansatz findet sie befriedigend. Sie gibt auch keine eigene Empfehlung ab, sondern schreibt:

"Die Frage, ob sie für Mietleitungen nutzungsabhängige oder einheitliche oder nach einem gemischten Tarif berechnete Gebühren erheben, ist im wesentlichen von den einzelnen Fernmeldeverwaltungen selbst zu beantworten..." (S. 77)

Hinsichtlich der Behandlung von Mietleitungen bliebe es dann bei nationalen Regelungen, aber auch beim "Wettbewerb der nationalen Fernmeldeordnungen", der sich in einigen Fällen durchaus schon als standortrelevant erwiesen hat.

Übergeordnetes Ziel dieser Überlegungen ist, die "finanzielle Lebensfähigkeit" der Fernmeldeverwaltungen zu sichern. Schon im Kapitel V "Wirtschaftliche Aspekte" heißt es, wenn das Telekommunikationssystem der Zukunft die wirtschaftlichen Vorteile der modernen informations- und kommunikationstechnischen Entwicklung nutzbar machen sollte, müsse es "zwei z.T. widersprüchliche Bedingungen" erfüllen:

- " - Im Interesse sowohl der Industrie als auch der Anbieter von Dienstleistungen muß dem freien Spiel der Marktkräfte, dem Wettbewerb und der Innovation in der Gemeinschaft mehr Raum gegeben werden.

- Gleichzeitig muß die finanzielle Lebensfähigkeit der Betreiber der Netzinfrasturkturen sichergestellt werden, wenn diese die enormen Investitionsvorhaben, die zur Schaffung der Infrastruktur für die Informationswirtschaft von morgen notwendig sind, in Angriff nehmen sollen." (S. 48)

Wie sehr diese Unterstellung, daß ein Widerspruch zwischen Wettbewerb und Existenz- oder Investitionsfähigkeit der Fernmeldeverwaltungen bestehe, berechtigt ist, hängt allerdings nicht nur davon ab, in welcher Breite Wettbewerb zugelassen wird. Eine nicht minder große Rolle spielt, was man unter "finanzieller Lebensfähigkeit" der Fernmeldeverwaltungen versteht. Geht es dabei wirklich nur darum, daß sich diese wirtschaftlich selbst tragen können, unter Einschluß der Aufgabe, Neuinvestitionen solide zu finanzieren? Oder geht es um die Finanzierung von Zielsetzungen, die mehr oder weniger schon jenseits des eigentlichen Auftrages einer Fernmeldeverwaltung liegen?

Die Kommission geht auf diese Problematik nicht ein, obwohl auch ihr bekannt sein muß, welche Rolle sie spielt. Die "finanzielle Lebensfähigkeit" einer Fernmeldeverwaltung wird jedenfalls von vielen Seiten her strapaziert, wenn nicht gar in Frage gestellt, unter Umständen sogar durch eine überzogene und zu wenig marktgerichtete Investitionspolitik im Infrastrukturbereich. Darum kann eine sachgerechte Antwort auf die Frage, wie Mittelungen gebührenpolitisch behandelt werden müssen,

auch nicht unabhängig von der anderen Frage gegeben werden, welchen Zielen die Gebührenpolitik bei den Wahlverbindungen, d.h. beim Telefon eigentlich unterworfen ist.

Was die richtige Darstellung des Problems betrifft, um das es hier geht, so wäre zu sagen:

Es gibt keinen prinzipiellen Widerspruch zwischen dem Ziel, Wettbewerb zu ermöglichen, und der Absicht, Fernmeldeverwaltungen finanziell unabhängig arbeiten zu lassen. Es gibt aber sehr wohl einen Widerspruch zwischen dieser zweiten Zielsetzung und einer Beanspruchung der Fernmeldeverwaltungen durch die Politik, die keine Rücksicht darauf nimmt, daß sich auch ein öffentliches Unternehmen, wie es Fernmeldeverwaltungen sind, im Wettbewerb befinden kann.

Unter der Überschrift "Transparenz und Quersubventionierung" stellt die Kommission noch einmal fest, daß sich alle Mitgliedstaaten darüber einig seien, daß die Fernmeldeverwaltungen "am Wettbewerb auf dem neu entstehenden Markt für Dienste und Endgeräte" beteiligt sein sollen. Es müsse aber sorgfältig darauf geachtet werden, daß daraus keine Wettbewerbsverzerrungen zu Lasten der anderen Konkurrenten erwachsen. "Die Unternehmenspolitik der Fernmeldeverwaltungen muß transparent sein, insbesondere was die Quersubventionierung zwischen Tätigkeiten, auf die sie ein Monopol haben, wettbewerbsbestimmten Diensten und Tätigkeiten im Endgerätesektor betrifft." (S. 78)

Damit wird eine Quersubventionierung vom Monopol-

zum Wettbewerbsbereich grundsätzlich jedoch als zulässig anerkannt. Die Erklärung dafür ist, daß eine kritische Beurteilung des Vorgangs unter wettbewerbsrechtlichen Gesichtspunkten erfolgt, für die es keine Rolle spielt, wo die Subventionen herkommen, wohl aber, was mit ihnen bezweckt wird. Ist der Zweck, andere Anbieter aus dem Markt zu verdrängen, so ist das wettbewerbswidrig, gleichgültig, ob dabei Mittel eingesetzt werden, die im Monopol oder "nur" aufgrund einer marktbeherrschenden Stellung im Wettbewerb erwirtschaftet werden. Unter der Verpflichtung, wettbewerbswidrige Praktiken der Preispolitik zu unterlassen, stehen die privaten Anbieter genauso wie die Fernmeldeverwaltungen.

Quersubventionierung im Haushalt der Fernmeldeverwaltungen ist trotzdem kein Scheinproblem; das sieht wohl auch die Kommission so, denn sie beharrt auf "Transparenz" der Haushaltsgebarung und Rechnungslegung auf seiten der Fernmeldeverwaltungen. Allein die Größenordnung der Finanzmittel, über welche diese verfügen können, sollte schon genügen, um an die Fernmeldeverwaltungen, soweit es um internen Verlustausgleich geht, strengere Maßstäbe anzulegen als an private Unternehmen. Dazu kommt, daß Fernmeldeverwaltungen nicht konkursfähig sind, den Staatshaushalt im Rücken haben und eben auch über ein geschütztes Gebietsmonopol verfügen. Ob die im Text erwähnte EG-Richtlinie 80/723/EWG, der zufolge die finanziellen Beziehungen zwischen den Regierungen der Mitgliedstaaten und ihren öffentlichen Unternehmen "transparent" sein sollen, unter diesen Umständen für die Fernmeldeverwaltungen genug leistet, wäre noch zu prüfen.

Die Ankündigung der Kommission, daß der demnächst erscheinende Vorschlag der 18. Mehrwertsteuerrichtlinie die verbindliche Einbeziehung des Fernmeldewesens in die Mehrwertbesteuerung ab 1.1.1990 vorsehen wird, ist zu begrüßen. (S. 80)

Im Abschnitt 4.3.5 "Gebührengrundsätze" wird darauf aufmerksam gemacht, daß es zwischen den nationalen Fernmeldegebühren und ebenso zwischen den Gebühren für nationale und internationale Verkehre Differenzen gibt, die sich sachlich nicht erklären lassen, mit Blick auf den gemeinsamen Markt für Telekommunikationsdienste also auch nicht zu tolerieren wären. Die Kommission wünscht auch hier einen "grundsätzlichen Konsens", der nach ihrer Meinung folgende Punkte beinhalten könnte:

- die Forderung, daß sich die Fernmeldegebühren "an der allgemeinen Kostenentwicklung orientieren" sollten;
- das Ziel, im innergemeinschaftlichen Verkehr schrittweise den Weg zu einer "europäischen Gebührenzone zu ebnen";
- die Aufstellung allgemeiner Grundsätze für die Gebührenordnung, die für Nutzer und Anbieter von Wettbewerbsdiensten im Rahmen der Bereitstellung eines offenen Netzes zu gelten hätten, hiermit verbunden eine "Einigung über allgemeine Grundsätze für die Bereitstellung von Mietleitungen." (S. 83)

Generell allerdings wird anerkannt:

"Die Festsetzung der Gebühren ist ein wesentlicher Bestandteil der allgemeinen Unternehmensstrategie der Fernmeldeverwaltungen."

Orientierung an der "allgemeinen Kostenentwicklung" soll offenbar auch und vor allem Ausrichtung an den tatsächlichen Kostenstrukturen bedeuten. Denn die Kommission meint in diesem Zusammenhang, es müsse "ein gerechter Kompromiß zwischen der Notwendigkeit, die Gebühren an den Kosten auszurichten, und dem Ziel, eine universelle Dienstleistung - für jedermann zu mehr oder weniger gleichen Bedingungen - zu erbringen, gefunden werden."

(S. 83) Sie läßt aber im unklaren, was sie unter einem derartigen Kompromiß verstanden wissen möchte. Auch hier fehlt der Hinweis, daß es gerade beim Fernsprechtarif nicht nur an der "Universalität" des Dienstes liegt, wenn die Gebühren mit den Kosten wenig zu tun haben und zum "Rosinenpicken" geradezu auffordern. Darum sollte das Konzept der "universellen" Dienstleistung, die nicht nur flächendeckend, sondern obendrein zu einem marktverfälschenden Einheitstarif angeboten werden muß, grundsätzlich erst einmal in Frage gestellt werden. Es kann auch die Kombination "Flächendeckung ja; Tarifeinheit nein" geben.

Vor dieser Frage landet man ebenso, wenn eine Gebührenordnung für ein offenes Netz geschaffen werden soll. Die Kommission spielt nur mit einem Satz auf die Möglichkeit oder Notwendigkeit an,

die Gebühren des Netzbetreibers zu "entbündeln", d.h. nach "Trägerdienst-" und "Mehrwert-Komponenten" zu differenzieren. Dieses Konzept sollte in der Tat einmal konsequent ausgearbeitet werden.

Im Abschnitt 4.4 werden "angrenzende Infrastrukturen und Dienste" behandelt, womit gemeint sind:

- Satelliten,
- Mobilfunk,
- Kabelfernsehnetze (S. 84ff).

Der Begriff "angrenzende Infrastrukturen" ist wenig erhellend, weil er nicht zu erkennen gibt, ob es sich um Netze handelt, die mit ihren Leistungen die bestehende Infrastruktur lediglich ergänzen oder dieser Konkurrenz bereiten. In der Praxis ist beides gegeben, und die technischen Entwicklungen wie die heute schon zu verzeichnenden ordnungspolitischen Tendenzen, auf welche die Kommission verweist, lassen erwarten, daß sich gerade die Konkurrenzbeziehungen weiter verschärfen. Damit rechnet die Kommission auch bei den KTV-Netzen.

Grundsätzlich wird auch in bezug auf den Betrieb "angrenzender Infrastrukturen" daran erinnert, "daß ausschließliche Rechte bezüglich der Bereitstellung der Fernmeldeinfrastruktur restriktiv zu definieren" sind (S. 87, zur Satellitenkommunikation). "Die Tatsache, daß die Bereitstellung der zentralen Netzinfrastuktur einem einzigen Betreiber vorbehal-

ten ist, darf der Nutzung neuer technischer Möglichkeiten durch private Systeme nicht im Wege stehen" (S. 89, zur Mobilfunkkommunikation. Denn "den Nutzern sollte Gelegenheit gegeben werden, die Vorteile des technischen Fortschritts in vollem Umfang auszuschöpfen."

Auf der anderen Seite betont die Kommission die Notwendigkeit, auch dann die Kompatibilität der Systeme sicherzustellen. Daß sich in der Gemeinschaft 5 verschiedene und nicht-kompatible Mobilfunksysteme entwickelt haben, zitiert sie ausdrücklich als ein "drastisches Beispiel im negativen Sinne". Sie verweist auf ihre Vorschläge für eine koordinierte Einführung eines europaweiten öffentlichen digitalen Mobilfunkdienstes, die ein weiterer Ansatz für eine gemeinsame Politik auf dem Gebiet der Infrastruktur wären.

Bei der Satellitenkommunikation wird aus der technischen Entwicklung gefolgert, daß sie "zwangsläufig eine Überprüfung der ordnungspolitischen Auflagen (d.h. der Monopolrechte der Fernmeldeverwaltungen) für die Bereitstellung sowohl des Raumsegments als auch des Bodensegments erforderlich machen" wird (S. 87). Auch in Europa gehe die Tendenz bereits "erkennbar dahin, daß Satellitenantennensysteme (Bodenstationen) auch von privater Seite angeboten und betrieben werden dürfen, insbesondere solche, die nur für "down links" (Empfang) ausgerichtet" seien (S. 86). Der Betrieb von Empfangsantennen mit sehr kleinem Durchmesser, sog. VSAT, sollte "in ähnlicher Weise" wie der Betrieb von Fernmeldeendgeräten geregelt werden. Die Beschränkungen:

für "Aufwärtsverbindungen" und für bidirektionelle Satellitenkommunikation müßten "von Fall zu Fall geprüft werden". Das befürwortende Votum für die Zulassung konkurrierender Anbieter von Satellitendiensten wird jedoch an folgende Bedingungen geknüpft:

- Es dürfen keine Interferenzen zu anderen Satelliten- oder Funksystemen auftreten.
- "Die Grundlage und die finanzielle Lebensfähigkeit des Betreibers der allgemeinen Fernmeldenetzinfrastruktur dürfen nicht gefährdet werden."  
(S. 87)

Damit ist auch hier hinsichtlich der "angrenzenden Infrastrukturen" das eigentliche Problem allen Wettbewerbs auf der Netzebene angesprochen: Welche Finanzierungsaufgaben sind den Netzbetreibern zu stellen, und wie soll - wenn die Netztechnik selbst Wettbewerb möglich macht - die finanzielle Stabilität der Netzbetreiber gesichert werden: durch konsequente Monopolisierung aller Aufgaben, die sich im Bereich der Infrastruktur stellen, oder durch Koordinierung des Wettbewerbs, wenn man diesen zuläßt?

3.8.87



Comment of the Council of Netherlands Industrial Federations on the proposed policy positions "telecommunications" in the EC green paper of June 30.

Numbers refer to the EC-conclusions (fig. 13)

A. Monopoly

We accept the continued exclusive provision of special rights for the telecommunication administrations. A natural monopoly for the network-infrastructure, and the direct transmission of signals between passive interfaces at the user location, form a good starting position for these special rights. In our opinion services and apparatus outside the basic "machine" that performs the direct transportation of signals should be free in the long run, as proposed for the Netherlands.

B. "Basic" services

We understand your view on the continued exclusive provision of some basic services (voice phone) by telecom administrations but wish to draw your attention on the elegant construction in a recently proposed alteration of the telecom law in this country; this bill avoids the cumbersome definition of "basic services" by stating the obligation for the telecom administration to perform certain well-defined services. These services need not be offered under a monopoly.

We strongly recommend to include, e.g. under this point B, an EC-position on the freedom for users regarding the possibility to choose from a menu of services, via leased or switched lines, without any mandatory assigning of services for any type of information.

C. Competitive services

We agree on your view that at least all services that have value-added quality should be free. In our view, however, (as remarked already under "B") all services offering more than the direct transportation of signals can be free (with PTT as competitor).

We recommend to include a position on the equal access conditions for all service providers (including PTT), and as to the timely provision of all information on proposed changes in the infrastructure to all parties concerned.

D. Standardization

We agree on your position on standardization. Standards must be functional. We wish, however, to emphasize that standardization is most of all a question of timely action: effective competition between services in an innovative and de-restrictive climate must never be inhibited by a standardization-eager special institute. Nevertheless, we strongly support the idea to create a European standardization institute in this field; The concept should be further developed under the aegis of the EC, and be managed under EC-supervision by professionals from parties involved among which CEPT. Flexibility and extremely good contacts with the market are of paramount importance for succes.

E. Access-requirements

Clear definitions of general requirements for access to and use of the network are necessary. These requirements should, in our view, not include specs related to general equipment performance or functionalities. A limitation to avoidance of personal injury, damage to the network, interference with billing or characteristics of other network-users apparatus seems necessary.

Discussions on open network provision (ONP), as described, are necessary, but have to take into account the fact that any service provider should get access to the network on a basis that is functionally equivalent to the one by which a PTT realizes such access for a competitive service.

Good interconnect and access obligations for transborder services are vital for the realization of a large European market. In practice, however, such obligations are not enough, because in many instances the operational discussions between the national PTT's on the factual interconnection are sub-standard; when a company asks for such a connection, in many cases detailed information on the exact nature of the value-added service in question is requested, and ad hoc interconnect-solutions are then created.

F. Terminals

We share your view that terminal equipment, within and between Member States must be provided on a competitive basis, subject to type approval. We see no need to exclude the first telephone.

The physical boundary of the infrastructure should be the clearly defined passive termination of the link from the network on the location of the user.

Type-approval has to take place in recognized laboratories; we strongly recommend to include a position on the positive effects of self-certification in this respect.

We do not agree with your opinion that "receive only" earth stations are terminals, since there are normally not connected directly to the infrastructure. The uplinking-apparatus as such can in our view also not be part of the infrastructure, since the latter ends passively, i.e. just above the transmitter. Private operation will thus only be limited by the conditions linked to the right to transmit a radio signal.

G. Player/referee

Full separation of regulatory and operational activities of the PTT needs several safeguards. An inclusion in the EC-position of points related to consultation in the drafting process of new regulation, appeals, and control of the basic principles of cost-based tariffs could be usefull.

H. Review PTT's

We suggest that the EC, in reviewing the activities of PTT's concentrates on the boundary between commercial activities and the utility-functions. Cross-subsidization ought especially to be avoided between utility and commercial functions; we advise you to refrain from using the concept of cross-subsidy while speaking of normal business start-ups by the commercial part of a PTT.

Your review could comprize e.g: adequate accounting procedures to separate costs and revenues between monopoly and competitive activities, the non-discriminatory access to basic transmission functions under the same tariffs for al providers of competitive services (including PTT), up-to-date information concerning technique, interface and customer-connection. Clear regulation in the several member countries is necessary.

I. Review commercial

We agree on your view to review all providers in order to avoid the abuse of dominant positions. Special constraints in the competitive market should be avoided.

J. Common Policy

We would welcome a good and clear policy regarding arrangements with third countries and the built up of a consistent community position for the GATT negotiations. In this respect we draw your attention to the already large installed base of telecom-apparatus, and to the need, both from the points of view of users and providers of value-added services, to operate in a large transparant market.

Extra:

Tariffs

We are somewhat disappointed that the principle of cost-based tariffs, which is advocated in the full text of the green paper, did not lead yet to a clear-cut position in figure 13. In our view, the tariff structure for each transmission service of a PTT should be consistent with the network-facilities used, and be based on the costs of the service provided. Differences per country will continue to exist of course, but a system of "charge what the market can bear" is utterly out of place in a monopolistic environment. Improvements in cost/performance achieved by advances in technology should be built in in the tariffs. A clear split-up of the telecommunications bill in a transport part and a (value added) service part would be very usefull.

Extra:

Liability

Until now, almost every PTT has rejected even the most basic principles of liability. In view of the very strong dependence on good telecom-provisions for a fast growing number of companies, the normal business-principles of liability and third party risks must become good practise for the telecom-administrations. The community should take a position as to the limitations of this liability in the member countries.



# **GREEN PAPER ON TELECOMMUNICATIONS**

## **STATEMENT OF INTEREST**

### **DIGITAL EQUIPMENT**

Digital is the world's largest manufacturer of networked computers and computer-based equipment. Its products include a wide range of hardware and software systems that are often heavily integrated with telecommunications. Digital also is an acknowledged industry leader in applying computer-based technology to produce advances in the efficiency and capabilities of telecommunications networks.

As a major competitor in the unregulated equipment marketplace, Digital has been and is an active global participant in past Commission, PTT, FCC and other deliberations concerning the role of telecommunications regulation & standards in connection with network facilities, customer premises equipment and enhanced services (VANS and VAS). In these discussions Digital has been a staunch supporter of pro-competitive and deregulatory policies. In particular, Digital consistently has maintained that the computer, data processing and telecommunications equipment marketplaces should be allowed to develop free from regulatory intrusions, whilst maintaining national and regional social goals.

Digital also approaches the Green Paper from the standpoint of a manufacturer and supplier with global operations. As a multinational corporation, its computer equipment and services are marketed on a global basis. In all developments of its products and services, Digital views itself as competing in a world-wide marketplace. Accordingly, any new regulatory requirements impacting that marketplace are of obvious and direct importance and concern.

## DIGITAL'S PHILOSOPHY & OVERVIEW

Digital Equipment defines its mission as the production of quality information systems, products and services; information systems are defined as "the way in which a company acquires, shares, integrates and uses data to fulfill its mission, optimize its productivity and competitiveness, and plan its evolution".

To become more productive, organizations must have a consistent philosophy of organization which empowers their employees to fulfill the company's mission. Below is Digital's vision of the ideal philosophy to achieve productivity and achieve high employee morale through the positive development of ethical, autonomous individuals.

We believe in the dignity of the individual, the increase in his productivity which comes from associating freely with others in his organization while accessing the information required by his job, and his obligation to provide information to others as he receives it. We believe in the Fundamental Human Right to the "Free flow of Information" (Green Paper, p. 139) and its major significance for the development of welfare and economic growth (along with the free flow of persons, goods, services and capitals). We want to help to increase the effectiveness of interpersonal communication.

These beliefs lead to the peer-to-peer style of networking we produce, as well as to the management style we use. Computer mediated information (mail, notes files, ...) is an appropriate implementation of this style. Interestingly, this style is applicable also to computers interfacing with machines : on the shop floor we could use the slogan "liberate the robots" to identify the power which we can add to the manufacturing process when the parts of the process are appropriately connected.

We look forward to the evolution of the business world to the "one corporation" concept, in which the information flow between departments of two different companies is as easy as that between equivalent departments in the same company. This interaction would make clear that the primary long-term added value of a company is the processes which it has; if those processes are not clearly superior to those available externally, then the company should seriously consider using the external processes instead of its internal ones. This style of management would quickly lead to the distribution of processes to the place where they can be done best, just as distributed computing moves the computation to the place where it can be done best. Examples are just-in-time manufacturing which moves your inventory outside your company or external manufacturing which moves the whole process outside.

The final stage of our relationship to other companies occurs when we take the risk of agreeing to do new things together as partners. Previous to this stage, we sell products, services, architectures and then processes which we already have. The partnership commitment is to make things which both parties agree are necessary, but which were not previously part of the repertoire of either company.

We recognize that a major part of our perceived added-value lies in what we call the Digital Computing Environment (DCE), which allows high productivity in applications development, flexible restructuring of information flows to adapt to organization and mission changes, and enhanced capability for effective information management and exchange. We are therefore developing programs to make the use of the DCE as attractive as possible to OEMs, software houses and internal company applications developers.

## **IMPORTANCE OF THE COMMUNICATION'S INFRASTRUCTURE**

In light of the above, we are convinced that the provision of unified pan-European communications infrastructure is of paramount importance for the critical development of the European business community, at all levels. Such capability offered within a more harmonized tariffication Environment and with wide geographic coverage will have a very significant stimulating effect on the telecommunications and information technology markets and, even more important, on the total economic development of our continent and its competitiveness vis-a-vis the U.S.A. and Japan.

## **ROLE OF THE PTTS**

**We believe that the PTT administration (plus other carriers), whether re-regulation takes place or not, are in the best position to bring the benefits of full communication capability economically to the largest possible community of users because of their historical position and geographic coverage.**

**We are also of the opinion that PTT administrations and the European Commission must play an important role in the promotion of the non-proprietary standards that are indispensable to full open information exchange and to ensure fair competition.**

**While we do not exclude the possibility to provide partial infrastructure if no other satisfactory solution is available, if it is more appropriate for our customers, our preferred competitive alternative, given the above conceptual framework, would be to see these services offered by both the PTT administrations (and where re-regulation allows, other carriers) and other service providers, coordinated at a European level.**

**It is therefore our intention to support the effort of the PTTs and the European Commission, and to cooperate fully with them. We will be happy to explore with all parties ways where our capabilities (architecture, products and services) could be beneficial.**

# MARKETS

We believe that virtually all businesses are potential users of advanced communications services (national, pan-European and global), should these become affordable. The current usage of Teletel-based services in France is a good illustration of this.

Because of the rapid pace at which technology is evolving (and interpenetrating both the telecoms and computer industries), and accelerating rather than slowing down, this market could be split in two parts.

The first part is constituted of those large organizations which can afford the infrastructure and the staff to build corporate networks and services that can track and therefore take advantage of leading edge technology progress and optimal tariffication. It can be expected that they will use the Public Infrastructures for satisfying their complementary needs - in particular for inter-company communications - and continue to use their own networks for most intra-company information exchange. In the latter case, they will probably seek support from their usual suppliers.

The other part of the market is simply "all others", i.e. those enterprises which cannot or do not want to dedicate significant resources to a network infrastructure although their businesses rely strongly on easy, timely and cost-effective communications with customers, suppliers and trade partners.

This second part of the market, certainly the largest, is clearly the primary one for open advanced communications services on optimal tariffication, as well as the segment where a pan-European unified approach would bring a maximum contribution to the development of the European economy. This is the critical role of the Telecommunications Administrations, operating on a competitive basis with other suppliers, because of their (possible) economies of scale and delivery coverage.

## DIGITAL'S ROLE

Digital's response to the Green Paper takes account of the company's multiple roles.

As a major user of the Telecommunication Infrastructure in all aspects, via Voice, Data, Image and Video. These resources are critical to our continuing international, and indeed global, operations in terms of both efficiency and effectiveness.

As a major supplier of end-user computing equipment and services, both in Europe and globally, particularly distributed networked solutions.

As a major supplier of leading edge solutions to the PTTs and other operators.

As a critical development partner for both end-users and Infrastructure operators.

As a major player in the creation, development, implementation and support of standards.

As a partner in the development of the European region economically, environmentally and socially.

## THE GREEN PAPER OVERVIEW

Digital welcomes the bold initiative the European Commission has taken in publishing the Green Paper. We welcome the trend implicit in its publication (vis open debate and discussion of critical issues related to the future development of economic markets and technology), and the specific trends outlined within the substance of the Green Paper, vis :

- a) The explicit recognition of the need for increased competitiveness in the telecommunications equipment domain.
- b) The explicit recognition of the increasing interlinkage between telecommunications infrastructures (both regulated and non-regulated), the computing industry and economic development (both suppliers and users).
- c) The recognition of the need for pan-European (not just EEC) simplification and harmonization of homologation procedures.
- d) The explicit recognition of the need for (local) separation of regulation from operations.
- e) The implicit recognition of the need (partially through d. above) for a clear legal basis for competition between private industries and state concerns.
- f) The implicit recognition that for real development of the European economy and social structure more than market forces are involved, and that some degree of social-goals oriented (not just market-goals oriented) management is necessary in the "collision" of the telecommunication and computing industries.
- g) The ongoing recognition that pan-European, multi-industry, multi-vendor collaborations are necessary to achieve regional, and to some extent global, significance through the development and easy implementation of new technologies.

Our major concerns, both from a philosophical view point and because of the rate of change we see in both technology and user requirements to effectively compete, are that the Green Paper does not address (either in the current discussion process or explicitly within its substance) the following critical issues :

1. It is our view, as outlined above, that Information Technology, particularly the "access to" aspect which is above all the Telecommunications Sector, is in the process of becoming one of the fundamental ENABLING mechanisms for the development of modern society in both the economic and social fields. We suspect that the major feedback on the Green Paper will be from technically and/or commercially interested parties (PTTs, Suppliers, Pressure Groups and some large users). Given the fundamental social shaping force of these joint technologies, we believe the common interest lies in broadening the debate to include other social and trade entities. (This concern is illustrated by the process we have observed in the PC-WATTC process where the micro technical/economic interests of the PTTs are becoming "de facto" government positions since the issues have been "sold" (by some PTTs) as a purely technical matter, thereby avoiding interdepartmental discussions of the real social/legal issues and the consequent development of full social and economic positioning).

Given the fundamental enabling role of this particular sector of the economy, debate relating only to "internal players" and their interests is at least distorting and at most dangerous, since the total regional economy and its global competitiveness (and hence the welfare of the population at large) is at stake (the Green Paper p. 152 2nd para emphasises this point).

2. a) In many contexts the Green Paper makes reference to the significance of the new technologies in enabling or "pump-priming" roles, and to their impact on social factors and the nature of work. However, it then describes necessary developments, which are legitimate and valid in themselves but which relate only to the specific development of technologies and economies in the Telecommunications Industry. It is our view that this perspective is self-limited and leads inevitably to analytic avoidance of one of the key issues : "How to stimulate beneficially and how to manage the changes this industry will bring ?". Taking this wider perspective would, we submit, immediately alter the perspectives on Tariffing, Regulations and the internal dynamics of the Telecommunications Industry. It is the interaction of the Telecommunications Industry with the total economy which, we argue, is

the correct (or the more interesting) base for modeling tariff and regulatory alternatives. In this we concur with the principles in C.C. Van Weizsaecker's paper, "The economics of VANS". Other have also made substantial arguments pointing to the rapid commoditisation (and hence widespread diffusion) of information technology made possible where (electronic) distribution is unencumbered by adverse regulation or specific industry - protecting tariffication principles - in particular the value-based tariffs used by many PTTs as against cost-based tariffs. The contrasts between IT developments where cost-based leased lines are available against these where value-based charging is in place are dramatic and conclusive. Bringing this perspective together with the economies of scale arguments in Weizsaecker and the principle of Free Flow of Information, the following points emerge :

- Cost-related tariffication would become a major pump-priming stimulant.
- Existing regulatory barriers (interconnect and sharing or resale of capacity restrictions) would no longer be valid arguments.
- (In the longer term) Reconsideration of competition would be necessary in all telecommunications domains where economy of scale can no longer be considered a factor.
- (To ensure a high quality information flow) Network infrastructure providers must commit to agreed performance criteria (as against standards), preferably pan-European, with appropriate penalties in case of non-observance. All of this must be published, in order to convey to the user the right operational expectations and thereby the choice of the appropriate solution. (e.g. Expectations and business needs of users for international public packet switching are much higher with respect to throughput and reliability than that which is in practice available today.)
- A wider choice of services, free competition in the equipment sector, and possibly some competition in the infrastructure domain, will all make the telecommunications business increasingly complex. This complexity will require an ever increasing number of professionals (marketers, engineers and managers). This will not only be within the telecommunication manufacturing industries and telecommunication

services providers, but also within the network infrastructure and, last but not least, in the user community itself. The Commission should initiate warning signals that without appropriate actions being taken now at many levels Europe will be confronted with dramatic shortages of such professionals.

## COMMENTS ON THE PROPOSED POSITIONS OF THE GREEN PAPER

In the interests of brevity we will restrict our comments to the ten positions outlined in figure 13 of the Green Paper.

- a. Digital accepts the implication that the continued exclusive provision and operation of the network infrastructure is the province of the telecommunications administrations (subject to the caveats in b).

We believe, however, that a gradual structured opening of the network infrastructure would stimulate further innovation and a greater level of services to help fulfill user needs. To this end, we believe that the (immediate) ability for users to utilise competitively supplied private microwave links and two-way satellite communications would be a key development SPUR.

Where additional competitive infrastructures are allowed, which we would encourage, they should be subject to the same regulatory (if not utility) conditions and treated as part of the overall infrastructure.

- b. We agree that where services are to be provided on an exclusive basis this provision must be construed as narrowly as is necessary to ensure that public service goals are met. We agree that these circumstances should be reviewed on a continuous and regular basis, to take into account not only technical developments but also market development and social needs.

We would urge caution, however, with the blanket use of openness. It is our belief that the provision of some new services may need initial monopoly provision, particularly for their development and take up in the lower end of the market (for reasons of scale and user economies). The Telecommunications Administrations may be the most appropriate vehicle. Coupled with this approach, however, must be a well defined transition timescale and process to ensure investment protection during the subsequent opening to competition.

c. We agree that the provision of all other services, except those defined in b. and subject to the stated caveats, should be unrestricted. We also believe that the Telecommunications Administrations should be encouraged to offer similar but competitively based services. The role of the Independent Regulatory Authority as proposed is critical in ensuring that no unfair or monopoly positions are implemented by the Telecommunications Administrations. Equally we believe that the European Commission has a critical role, both with regard to the Telecommunications Administrations and to other services providers, in ensuring compliance with EEC commercial policies and competition rules. It is further important that access by other service providers to the network infrastructure is adequately defined and ensured by the regulatory bodies and guaranteed on a pan-European basis by the EEC, via the appropriate instruments.

d. We support the Commission's goal of the provision of pan-European (and indeed global) interoperability via standards. We believe, however, that standards are best achieved by independent but formally constituted bodies involving all concerned parties, particularly users. Given this, the Telecommunications Administrations, should be no more than a participant in such bodies. If they are the determining or setting agency this would be effectively an extension of monopoly condition. This is not acceptable, given that we would also encourage Administrations to participate in the competitive services areas.

We would further encourage the Commission and the Administrations (and other service providers) to move towards contract-based performance specifications (external to standards), in order to ensure user expectations of such services can be met.

e. As previously stated, we believe that clear, unambiguous and fair interconnect and access standards, together with user obligations for utilization of the infrastructure (both national and transnational), are critical.

We fully support the aim of the Commission for a directive on Open Network Provision, provided that the conditions are non-restrictive and apply equally to all service providers, including the Telecommunications Administrations. We believe, however, that all interested parties should be allowed to participate in the discussion leading to such a directive.

f. We support and agree.

- g. We strongly agree with the separation of regulatory and operational entities and powers. We believe that this is essential at national level in order to reflect different national conditions and social goals. However, there also remains a need for coordination at an European level. We believe that the Commission would be well advised to give early consideration to a review of the methods available to achieve such coordination. This is not to argue for an equivalent of the U.S. Federal Communications Commission for Europe, but possibly for a rationalization of the existing inter-institutional links.
- h&i. We agree and support subject to previous caveats.
- j. We believe that this is a critical activity which should, however (and as previous comments have indicated), be extended to ensure participation of entities other than just the Telecommunications Administrations.

Digital Equipment - December 1987

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Nederlandse vereniging van Bedrijfstelecommunicatie Grootgebruikers - NVBTG  
(Dutch Business Telecommunications Users Association)

NVBTG's view of the "Green paper" of the EC

The NVBTG compliments the commission on the report that has been published and concludes in general that it is a good step forward to a uniform European telecommunications policy. However, we wish to emphasize that this can only materialize with the serious support and co-operation of all member-states, because a noncommittal attitude will produce a strong contrary effect. NVBTG has found that there are some inconsistencies and omissions in the report. These will be dealt with in our comment point by point. In general, we as a user consider two main points of extreme importance, viz:

1. The Telecommunications Administrations (TAs), which will be granted a concession, will confine themselves to the transport of information in the most restricted sense.
2. A clear and obvious, transparent uniform tariff structure, above all for international communication.

In this connection NVBTG holds the view, that the tariffs for all basic services should be based on the actual costs plus a reasonable return on investments.

It appears that there is an utterly untransparent tariff structure, in particular for international communication.

This applies both to basic services and leased circuits. On this point a uniform European tariff would have our preference.

Only if there is a demonstrable necessity to introduce differentiation in tariffs per country can such differentiation be tolerated, provided it will be transparent and verifiable for the user.

In any case neither the direction of a circuit nor the routing may lead to different tariffs.

The EC should continue doing its utmost to come to a uniform tariff structure in Europe.

The fact that there are sometimes considerable differences in tariffs in the various member-states leads to a disturbance of business activities.

Comment on the various positions

A. Monopoly

We accept the existence of an exclusive right for the TAs to offer the basic services to the network infrastructure.

It should be noted that it is then also important to define most sharply what the limits between "basic services" and "value added services" actually are. In this respect we are not in agreement with the differentiation referred to in the report, being "limited" and "partial" release of services (cf also page 14 and 15).



There should be no subdivision in gradations; the service is either "basic service" or "value added service". In the latter case it clearly falls outside the concession area.

This concerns both wired and wireless circuits. We would observe in this respect that Receive Only Earth Stations (ROES) for satellite reception in the right sense of the word and without connection to the public network, should fall outside the monopoly, in fact, more strongly, we also regard type approval for such ROES as irrelevant. Besides, the service "voice only" will in the long term be debatable at a complete digitisation of the networks.

#### B. Basic services

We agree that basic services form the exclusive right of the TAs (concession area). However, it should be determined most precisely what in this case should be regarded as basic service. This likewise calls for a clear definition of the network access, both technically and functionally.

We support the view that only the basic service "voice" should fall under the exclusive right of the TAs.

It should be clearly defined that voice networks within the user's private field should fall outside the basic service (e.g. the voice part of a PABX and private PABX networks).

Every other service, using the transport function of the infrastructure should therefore be regarded as a competitive service outside the monopoly.

#### C. Value added services

We agree to your view that every service, containing characteristic features of added value, should fall outside the concession area. These services can be offered by both TAs and private suppliers.

The access standard for use of the infrastructure should be absolutely uniform for both private suppliers and TAs and all parties should be treated on an equal basis with respect to the availability of the service.

Regarding this matter, we wish to observe that "packet switched" data networks, as offered now by several TAs should be seen as "Value Added Network Services" and should therefore be offered in competition.

#### D. Standardization

We agree to your proposal regarding standardization.

We wish to emphasize though, that standardization should also be bound to a time schedule.

Besides, the will to standardization may not lead to the elimination of competition nor may it slow down the innovative process.

Standardization, although often initiated by the TAs and industry and often also used as a competition weapon, should be co-established by an active input of the users, for they are the ones that should be able to work with the final result of standardization.

We wish to observe, that in the past standardization in telecommunications systems or recommendations from several standardization bodies was often



accompanied by too great a number of options in the standard. If standardization is really to be effective, the number of options should be minimal.

Needless to say that standardization of course is a completely European or worldwide affair that affects every member-state.

For TAs and possible suppliers standardization should be made compulsory. An independent - possibly European - authority should be set up which observes and monitors the right interpretation of the standards.

#### E. Access standards

It is of evident importance that there should come clear definitions for access to the network, whereby one should confine oneself to the interface specifications, both functionally and technically. We emphasize that the internal functionality of the terminal equipment, its specifications and performance, insofar they do not fulfil this interface function, should absolutely fall outside the access standards. The most important characteristic feature for the access standard, in our view, is that the functionality and integrity of the network is not affected by some terminal equipment.

We hold the view that within the EC efforts should be made to come to uniform access standards for comparable services that are applicable in each individual country. Operations should be in line with the market, in other words, both private suppliers and TAs have equal chances in the access to the network and completely equal conditions.

#### F. Terminals

We agree that there should be a type approval for terminal equipment provided that this will be carried out by an independent authority. Type approval for ROES is, in our opinion, completely superfluous, unless a ROES is connected to the public infrastructure; in that case the conditions as mentioned under E should apply, restricted to the interface specification.

#### G. Player and Referee

There should be a clear separation between the regulatory and executive authorities. The report of the commission is not clear; they merely make mention of a separation. We want to emphasize that this separation should be complete and that the regulatory authorities should be completely independent and have no single functional relation with the TAs.

We feel that a control body should be set up which could act with authority and prevent a possible fusion of interests. This authority, acting absolutely impartially, can be set up either on a local level or on a European level.



**H. Monitoring TAs**

Care should be taken that a clear and strict division is maintained between the commercial and the concession activities of the TAs. With regard to the commercial function it should be noted that every entrepreneur, say at the introduction of new products, is free to allow a kind of cross subsidizing within the scope of his corporate activities.

We want to state clearly that this kind of cross subsidizing is quite different from the feared cross subsidizing between public utility function and commercial function. This latter form is completely inadmissible.

**I. Monitoring on commercial activities**

No comments.

**J. Commercial activities of the community.**

We do not see any reason why for the telecommunications market an exception would have to be made. In other words, the telecommunications market within the Community should behave completely in accordance with the regulation also in force for other trade activities.



RESPONSE OF THE EUROPEAN COMPUTING SERVICES ASSOCIATION TO  
THE CEC GREEN PAPER ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATIONS SERVICES AND EQUIPMENT COM (87) 290

INTRODUCTION

The European Computing Services Association warmly welcomes the publication of the consultative document on the development of telecommunications within the Common Market as a demonstration of the Commission's commitment to change in this most important aspect of the European economy.

On several occasions in the past ECSA has emphasised to the Commission that the telecommunication networks in Europe provide the vital highways of the new information society. It is essential for the development of information technology throughout Europe that these data communication channels should be fast, low cost and unrestricted. In a paper published in 1985 on "Freedom for European Value Added Network Services", ECSA called for the liberalisation and harmonisation of the telecommunications network and the need to be freed of any current restrictions imposed solely in the interests of the national PTTs or "Telecommunications Administrations" as they are referred to in the Green Paper.

ECSA is therefore encouraged by the Commission's initiative in proposing ways to promote the development of new services by setting them in a more competitive framework. Although these proposals do not at the present time go as far as ECSA would wish in the liberalisation of telecommunications, ECSA offers its support for all these proposals and would wish to hasten the transition process.

THE SCOPE OF ECSCA'S INTEREST

ECSCA represents the interests of 17 national trade associations for computing services with a total membership of over 1300 companies. The total turnover of the computing services industry in western Europe in 1986 was \$23.5 billion and the industry continues to expand at an annual rate of around 20%. About 22% of the revenue of ECSCA members is accounted for by remote problem solving, remote auto-transactions, database services, electronic data interchange and value added network services. All of these services rely on the availability of a cost-effective data communication network; it is the absence of such a system on a pan-European basis that has retarded the growth of computerised network services in the continent of Europe compared with their development in the continent of North America. It is significant that at the present time almost all of the computing service companies poised to take advantage of a harmonised European data communications network are multi-national companies with headquarters in the USA.

Because of the specialised interests of computing services companies, ECSCA is commenting only on those main proposals in the Green Paper which affect the supply of computing services. Where the Green Paper contains other major proposals in which ECSCA members are concerned only as telecommunications users, then ECSCA supports the comments of the European Telecommunications User Associations submitted on 25.11.87.



#### LIBERALISATION OF ATTACHMENT

ECSA fully supports the proposed liberalisation of the market for terminal equipment and recommends that this be carried out as quickly as possible rather than phased in slowly as indicated in the Green Paper. There should be no exceptions to the freedom of attachment which should be extended to all equipment, including the subscriber's first telephone set.

#### OPENING OF THE NETWORK SERVICES MARKET TO COMPETITION

ECSA advocates the freedom for all network services to operate throughout Europe and make unrestricted use of the networks across Europe in order to strengthen the competitiveness and efficiency of the whole European economy. ECSA's main proposals on value added network services are embodied in the attached Briefing Note on Value Added Network Services dated January 1985.

ECSA does not accept that for the time being certain basic services should be reserved for exclusive provision by the Telecommunications Administrations of some member states. Indeed a strong case is to be made for excluding the Telecommunications Administrations from participating in the provision of other services because of potential conflicts of interest and unfair marketing advantages.

### TRANSBORDER OPERATIONS

ECSA supports the right of its member companies and other operators to supply telecommunications services across the national boundaries within the Community without discrimination or protectionist barriers. The harmonisation of telecommunication tariffs is particularly important in this respect.

### TARIFF PRINCIPLES

Inequalities in telecommunication tariffs are one of the main obstacles to the establishment of pan-European network services. The Commission should work energetically towards the removal of the gross anomalies that currently exist in many nations whose telecommunications administrations protect or unduly exploit their telecommunications monopoly.

The tariff principles referred to in Section 4.3.5 of the Green Paper have been identified by ECSA as one of the main practical obstacles to transborder dataflow throughout Europe. The bi-lateral agreements lead to anomalous charges for network services which make it impossible to operate in a competitive or businesslike manner. The position is especially difficult in the case of leased-lines where current charges both at the national and the community level show wide and unexplained divergencies as confirmed by the Green Paper. These disparities in charges must be removed to the speediest possible timescale.



ECSA is very strongly opposed to the concept that telecommunication tariffs for tele-services should be in any way dependent of the nature of the tele-service.

On a national level, ECSA agrees that the setting of tariffs is a major component of a Telecommunications Administration's overall commercial strategy; but and the abuse of dominant positions must be halted. Increasing pressure must be exerted for local tariffs to follow true basic cost trends. As the cost of provision of long distance traffic has fallen much more than the cost of provision of local traffic, tariffs should become less distant-dependent.

#### CONTINUATION OF MONOPOLY

ECSA is opposed to the continuation of the monopoly rights for the provision of the basic telecommunications network but recognises that a limited number of public and private carriers should continue to have exclusive or special rights regarding the provision and operation of the network infrastructure.

ECSA also recognises the role of Telecommunications Administrations in the establishment of future generations of infrastructures. However, with the advances in satellite and optical communications, along with the convergence of telecommunications with other technologies, undue power should not remain in the hands of the Telecommunications

Administrations which may inhibit the rapid expansion of important new services made possible by high technology.

One of the main conditions which must be imposed to prevent the abuse of monopoly power and dominant market position is the separation of the accounting functions for the different facilities and services supplied by the Telecommunications Administrations to prevent unfair competition from artificially low prices or cross-subsidies.

#### SEPARATION OF THE REGULATORY FUNCTION

ECSA is adamant that the regulatory function currently carried out by the telecommunications administrations in many of the nations in the EEC must be separated completely and absolutely from the operational functions of public or private undertakings.

No mention is made in the Green Paper of whether the Commission would seek to establish a separate European community telecommunications regulatory agency, but ECSA would strongly support this move.

At the present time, the major problem areas within European telecommunications are being ignored because they concern a harmonisation of tariff structures and the definitions of the basic and enhanced services. Only a European Community telecommunications regulatory agency is capable of forcing through a tariff policy against the opposition of many of the current national regulatory bodies who are

understandably interested in preserving their massive investment in the basic infrastructure.

#### STANDARDISATION

ECSA supports the adoption of international standards where these are available and the creation of European standards where this is not the case. The preparation of the standards and technical specifications necessary to open up a competitive market environment for information technology services must be supported by the Commission. And ECSA would support the creation of a European Standards Institute for this purpose.

#### CONCLUSION

In presenting the above comments on the Green Paper, ECSA has had to await the ratification of these views by the 17 member associations which it embraces. The length of time taken between meetings of international bodies organised on a voluntary, self-funded basis means it is not possible to respond more quickly with an agreed consensus position on major strategic issues such as those covered by the Green Paper.

ECSA congratulates the Commission on its initiative in producing the Green Paper which is certainly the most important consultative document to emerge from the Commission for several years as far as ECSA is concerned. ECSA welcomes the call for a radical restructuring of the European marketplace and common approaches between

Governments in key policy areas of telecommunications. ECSA looks forward to working with the Commission to ensure that the proposals contained in the Green Paper are implemented in order to promote a greater degree of competitiveness throughout the telecommunications equipment and services market across Europe.

D. A. Eyeions  
January 1988

ECTEL RESPONSE  
CEC GREEN PAPER ON THE DEVELOPMENT OF THE  
COMMON MARKET FOR TELECOMMUNICATION SERVICES  
AND EQUIPMENT (COM(87)290 FINAL)

INTRODUCTION

1. ECTEL welcomes the opportunity to comment upon the Consultative Green Paper (COM(87)290 Final) which was published by the Commission of the European Communities (CEC) on 30 June 1987.

2. Through its member Associations, ECTEL draws together the views of a broad spectrum of companies comprising the Telecommunications and Information Technology sectors of European Industry. In addition to their R&D and manufacturing activities, these enterprises have longstanding professional and commercial relationships with the PTTs and User Groups both in Europe and worldwide. It is against this background that ECTEL welcomes the initiatives being taken by the CEC to strengthen European telecommunications and to promote fair and open competition in this rapidly developing area which offers substantial possibilities for industrial and market growth within the Community.

3. Bearing in mind increasing convergence in the Telecommunications and Information Technology fields and the technological advances being made to satisfy increasing user demand for new and improved services, the European Telecommunications Administrations (TAs) will undoubtedly be required to play a major role in creating the infrastructure environment within which the necessary coherent European telecommunications regime can be developed. In this context, ECTEL generally supports the proposals which have been put forward by the Commission in the Consultative document. These are perceived to provide a sound basis upon which to develop European ISDN and IBC regimes, which will significantly strengthen the Community market and industrial base.

4. Much detailed work needs to be undertaken in order to refine the proposals which have been made and to effect their implementation.

RESPONSE TO PROPOSED CEC POSITIONS

5. The comments contained in this section of the paper are of a general nature and have been referenced to the proposed Community Positions set out at Figure 13 of the Consultative Document:

a. Position A - Acceptance of continued exclusive provision or special rights for Telecommunications Administrations (TAs) in provision and operation of the network infrastructure.

(1) ECTEL accepts that TAs should continue to be accorded special rights regarding public network infrastructure provision and operation, and recognises the need to safeguard network integrity and financial viability. It is, however, important that these privileges are counterbalanced by the obligation to connect and by the following network attributes:

- Availability and reliability
- Europe-wide compatibility
- Public network integrity
- Compliance with Europe-wide common connectivity and access protocols for digitally presented circuits

(2) ECTEL is also of the opinion that, as a consequence of their special rights, the TA's should be required to provide the supplementary bearer services (CCITT Rec I.211) within the ISO Reference levels 1, 2 and 3 in order to provide the desired functionality of the European public network infrastructure which may otherwise be beyond the resources of small or medium sized users. However this is to be without prejudice to the ECTEL response to Position E below.

(3) Retention of these special rights should also be accompanied by adequate safeguards to ensure compliance with the above obligations and to prevent possible abuse of dominant power.

(4) Allowing for the varying rates at which individual Member States progress towards liberalisation, unfair discrimination and cross subsidisation by

TAs must be avoided. It will, therefore, be necessary to limit their influence in relation to both the setting of standards and the vertical integration of manufacture and supply, if industry is to participate upon an equitable basis.

- (5) In the context of two-way satellite communications, ECTEL would not support proposals for such services to be dealt with case by case. This would create uncertainty and could be inconsistent with the Commission's position vis-a-vis the physical network infrastructure. ECTEL recommends development of a consistent set of basic network infrastructure rules which should be applied Europe-wide and should be based upon a clear understanding of these proposed infrastructures, including those providing cable and cellular mobile radio services.

b. Position B - Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations in provision of a limited number of basic

services

- (1) ECTEL supports the CEC conclusion that no stable 'natural' boundary is possible between reserved and competitive services and that exclusive provision by network operators must be rigorously justified as essential to the satisfaction of universal service obligations.
- (2) ECTEL strongly recommends that a narrowly defined common set of 'reserved' services and a harmonised schedule for their introduction should be urgently established upon a coherent European basis. This should be kept under continuous review particularly within the ISDN environment.

c. Position C - Unrestricted provision of all other services

In the area of competitive services, ECTEL supports the requirement for TAs to compete upon an equitable basis with all other service providers, whether publicly or privately constituted.

d. Position D - Standards for network infrastructure and services

- (1) ECTEL agrees that there is a need to achieve and further develop the Community-wide interoperability of publicly available competitive services and terminal equipment. To achieve this, harmonised standards are required for accessing services and for attachment (to the network) of terminals which can offer these services. This principle should be applied to both reserved and publicly available competitive services at the minimum level needed to guarantee satisfactory end-to-end connection, integrity of the network for all users and safety.
- (2) It will also be necessary to adopt Community-wide standards for the network infrastructure itself, insofar as this is necessary to support universality of the services and terminal attachments provided. In the case of competitive services, ECTEL considers that all providers must be obliged to comply fully with defined and agreed network interfacing requirements. ECTEL draws attention to the fact that over-specification in general and of services and attachment requirements in particular, will unnecessarily increase product costs and inhibit innovation. This should be avoided.
- (3) ECTEL also considers that proper account must be taken of the distinction between requirements for existing services having an historic installed base and those new services and terminals (e.g. ISDN) where international harmonisation may be more easily achieved. ECTEL believes that the limited resources available for standards making should be concentrated in the latter area. At the same time existing standards/specifications for historical networks should be placed in the public domain while procurement continues.

e. Position E - Requirements for Provision of Competitive Services and Directive on Open Network Provision

- (1) The Green Paper proposes that unrestricted provision of 'competitive' services - including 'value-added' services within and between Member States - should be allowed by any service provider for discrete, shared and third party use. Assuming that 'competitive' services exclude only those identified under (A) and (B) above, ECTEL agrees with the concepts set out in the Green

Paper. It is also convinced of the need to establish consensus in the Open Network Provision (ONP) context, particularly in relation to standardisation and tariffing. It is, nevertheless, recognised that much work remains to be done in order to define the necessary basic service elements and Open Network Provisions and to agree the regulatory framework which is to be adopted.

- (2) The needs of special user groups wishing to utilise the infrastructure as a transport network (up to OSI layer 3) for individual applications and VAN services should be recognised. Relevant guarantees concerning installation and maintenance must also be provided in such cases.
- (3) A coherent numbering plan and customer to network signalling system are also required if effective and economic interoperability are to be achieved.

f. Position F - Unrestricted provision of type approved terminal equipment

- (1) ECTEL supports the open competitive provision, including installation and subsequent maintenance, of terminal equipment on a Community-wide basis and believes that the first telephone should be included within this regime as soon as possible. It will, however, be necessary to have regard to the impact of these changes upon the manufacturers involved.
- (2) ECTEL also emphasises that if TAs are to enter the market as terminal equipment suppliers, fair competition must be guaranteed. This implies transparent commercial separation of monopoly and competitive activities including accountancy and cross subsidisation of both finance and network specification and customer information.

g. Position G - Separation of regulatory and operational TA activities

ECTEL strongly supports the need to separate the regulatory and operational activities of TAs. These requirements are considered fundamental to achievement of the Commission's policy objectives. The CEC should also review the organisation needed to ensure effective oversight of national regulations. This should include radio frequency spectrum planning activities which should be undertaken upon a European basis, possibly within a CCIR framework.

h. Positions H and I - Continuous review of commercial activities of TAs and private providers under appropriate provisions of the Treaty of Rome

(1) ECTEL agrees that the relevant provisions of the Treaty should be consistently applied to both public and private service providers and to network operators. Here it will also be necessary to address other matters such as VAT issues. The question of enforcement needs some consideration. Mechanisms must be established at Community level to ensure that both the full intent of the policies and their timescales to implementation are satisfied by all Member Governments. The functional separation proposed in (g) above will necessitate institutional change by some Member States; this should be undertaken with a view to safeguarding competition within a European and not just in a national context.

(2) Experience has shown that it is not practicable, for example, to codify precisely what cross-subsidisation is unfair. Judgement is, therefore, needed to implement this policy and this can only be exercised by the separate regulatory authorities envisaged by the Commission. An essential feature of this is the need for financial separation of business areas within TAs and continuing transparency, at least to the regulatory authorities.

j. Position J - Application of the Community's common commercial policy

(1) ECTEL recognises the need for Europe to present a strong and coherent position during international negotiations and believes that this can best be achieved through a continuous process of consultation and negotiation. This will doubtless be facilitated by progressive implementation of the proposed Community telecommunications policy. It should be recognised, particularly during periods of transition, that development of a coherent open market will increase vulnerability of the Community to import penetration. Appropriate safeguards will, therefore, need to be provided while arrangements for achieving both true reciprocity and equality of opportunity are being

negotiated with non-Community Administrations and this should be addressed upon a country by country, market by market and product by product basis.

#### SPECIFIC ITEMS OF ECTEL INTEREST

##### 6. Acceleration of Existing Action Lines

ECTEL strongly commends the action lines proposed in the Commission Green Paper, together with promotion of the RACE Main programme, early introduction of digital mobile communications and the co-ordinated introduction of ISDN. It also advocates rapid extension of Directive 86/361 to include full mutual recognition of general type approval of telecommunications terminal equipment. In this context arrangements should be made to ensure:

- a. Strict compliance by TAs with all relevant approval requirements.
- b. Europe-wide harmonisation of approval procedures in respect of subject matter and time to implementation.

##### 7. Initiation of New Action Lines - European Telecommunications Standards Institute (ETSI)

- a. ECTEL wishes to stress the importance of standards in achieving a coherent Europe-wide communications infrastructure, and considers it necessary to progress urgently towards an arrangement that will guarantee equitable participation by the TAs, industry and user bodies in standards making policy, management and technical issues.
- b. In respect of the network infrastructure, ECTEL recognises the leading role of the TA's in defining standards which will ensure Europe-wide coherence. Such input must, however, be complemented at all levels by the relevant industry contribution in order to strengthen Europe's competitive position in world markets.
- c. In the field of telecommunications and information technology equipment for attachment to the network, and in the provision of services, ECTEL

believes that there is a substantial case for industry to take the leading role with a balanced contribution from the TA's and user interests.

- d. The precise mechanisms to achieve these objectives need further careful study and consultation. In the meantime, it is important that current standards work is not delayed or impaired by the possibility of future changes.
- e. Within the above framework, the concept of establishing a European Telecommunications Standards Institute is supported.
- f. Accelerating convergence between Telecommunications, Information Technology, radio, broadcasting and other information transfer regimes must be recognised. In this context it is important to ensure that, where appropriate, the necessary co-operation and working links are established between ETSI, CEPT, CEN, CENELEC and other relevant European standardisation bodies, in a timely manner.
9. Any new arrangements must ensure that standards for equipment and services do not frustrate or preclude competition and the achievement of EC policy. Care must also be taken to ensure that the necessary working links and collaborative arrangements are developed with the relevant International standardisation bodies (ISO, IEC, CCI TT, CCIR, etc.)

#### 8. Conditions for Open Network Provision

- a. ECTEL is convinced of the need to establish a harmonised European-wide network interfacing regime, supported by agreed conditions of use and tariff policies.

- b. The first issue to be resolved in progressing towards a Directive dealing with open network provision, is definition of the network boundary, particularly in the context of digital technology. If the liberalised supply of terminal equipment is to be meaningful it is important that this boundary should be defined so that the network includes only the minimum amount of equipment on customer premises. This equipment should, however, be sufficient to allow operators to terminate and test their networks while at the same time protecting them from all connected apparatus which complies with the generally applicable electrical safety requirements. Such a definition will make clear the distinction between terminal equipment, installation and maintenance and network equipment. All current and future terminal equipment would be subject to minimum mandatory standards for attachment. Networks not governed by these requirements should then be the subject of an appropriate Directive on interface standards, which must reflect the Open Network Provision concept.
  
- c. The Commission should urgently initiate a study of this matter with the full co-operation of all interested parties. Its aim should be to develop an initial definition of the Network Termination Point (NTP) of a digital network and to agree the principles by which future redefinition can evolve as technology progresses.

9. Common Development of Europe-Wide Competitive Services

- a. ECTEL endorses the need for development of these services (including value added services) upon a competitive basis within a European framework.
  
- b. It is, however, important that more is done to identify user demand for new developments so that there is commercial and technological motivation to make speedier progress. Greater emphasis should also be placed upon the development of Europe-wide services and upon the need to encourage not only the TAs but many entrepreneurs to provide services which are either being requested now by users or for which information providers and others foresee opportunities to satisfy future user needs.

## 10. Open Markets

### a. Within the Community

There is a risk that, with liberalisation being introduced at a different pace in each member country, equipment suppliers in the more liberalised nations, (particularly those in which basic and value added services are provided on a competitive basis) will find themselves disadvantaged. This would occur in cases where, on the one hand, competing operators chose their suppliers on the basis of purely commercial criteria, while Administrations in other countries identified national origin as a sourcing criterion. As the Community aims to create an open market for equipment and services, ECTEL considers that no supplier within the Community should be denied the opportunity to participate in the market for equipment, works and services - including supply to TAs. The Commission should, therefore, ensure that this market is both open and fair.

### b. Worldwide

The very act of creating an open competitive and coherent market makes that market more vulnerable to import penetration, especially during the transitional phase. Although there is no desire to press for the restriction of international trade agreements to provide protection, abuses of such agreements must be disallowed. At the same time, the whole Community should press vigorously for the removal of restrictions by our international competitors on access to their internal markets. Some means of achieving concrete reciprocity, country by country, market by market and product by product must, therefore, be sought as a counter-balance to the opening of European markets to external competition.

## 11. Alternative Infrastructure - Cable and Radio

- a. ECTEL believes that the Green Paper is unclear as to the future status of local cable systems and in relation to responsibility for their infrastructure. Local area broadband cable systems are developing without the full investment required to satisfy telecommunications system needs. This can have an adverse effect upon integration of such systems as part of a national telecommunications service. Furthermore, many private radio networks already exist and interconnection of these with national telecommunications networks must be considered.

- b. To enable such systems to be integrated as part of a national switched network, factors such as transmission performance and numbering plans must be considered. The impact that such systems could have in Europe needs further study.
- c. ECTEL considers that when drafting any proposed Directive on Open Network Provision, the Commission should recognise the need for a coherent approach to both availability and allocation of the frequency spectrum. A broad study is also needed to take account of the requirements for trunk radio systems, pan-European cellular mobile services, paging and messaging services, cordless telephones, universal personal communicators, radio local area networks, satellite services and rural radio services.

12. ECTEL endorses the concepts put forward by the Commission in relation to the future development of satellite communications, relations with third party countries and the social impact of the changes being proposed.

### 13. CONCLUSIONS

ECTEL concludes that:

- a. Change is desirable and inevitable and that greater regulatory coherence is required throughout the Community, preferably upon a Europe-wide basis.
- b. Any changes which are contemplated need to be carefully co-ordinated since their purposes and effects are interdependent; for example, the absence of suitable standards at the right time could be a major impediment to progress in other areas. Also, failure to find effective solutions to problems in the area of copyright/IPR, fraud and security will inhibit or retard the growth of services and diminish their overall economic effect.
- c. A carefully timed implementation plan needs to be developed which will take account of both the further preparatory work needed, the inter-dependencies of the changes to be made and their effects upon industry.
- d. These changes need to be introduced in a progressive and well ordered manner, in order to avoid destabilisation. Such a situation would not only impede the proper development of the proposed

Community telecommunications regime, but could also threaten the survival of important elements of manufacturing industry which have a vital contribution to make.

- e. After reviewing the responses which it has received to the Green Paper, it is hoped that the Commission will develop drafts of its intended submissions to the Council and a timetable for their phased implementation, before proceeding with any executive action.
- f. ECTEL recognises that much work now needs to be undertaken in order to develop the concepts set out in the Green Paper and stands ready to contribute fully to the achievement of these objectives.

COMMENTS OF ECTUA ON THE "GREEN PAPER ON THE DEVELOPMENT OF THE COMMON MARKET FOR TELECOMMUNICATIONS SERVICES AND EQUIPMENT" (COM(87) 290 final)

ECTUA enthusiastically welcomes the Green Paper as a sign of the Commission's interest in the fostering of telecommunications insofar as it is indispensable to the dynamics of the European economy.

ECTUA is pleased to have been invited to present the opinions of European users on the propositions made by the Commission, and wants to clearly express its support to the Commission in its objectives.

ECTUA's opinions are set forth in the documents: ECTUA Position on European Telecommunications Policy (final 16/6/1987, see annex 1), ECTUA Point of View on the Development in Europe of an Open Network Provision Concept (final 9/9/1987, see annex 2), ECTUA Point of View on a European Telecommunications Standards Institute (final 25/11/1987, see annex 3), and in comments submitted by individual member associations.

Firstly, ECTUA insists on the need for a European telecommunications strategy that matches the needs and interests of users. This condition must be met so that the entire economy can benefit from the potential evolution of networks and services. Therefore user participation is needed in developing the strategy to lead, in particular, to the cost-orientation and harmonisation of telecommunications tariffs, and to the harmonization of telecommunications regulations in Europe. Then, users will have the greatest possible choice and flexibility in determining and maximising their own strategies in the utilisation of Information Technology.

It is in this spirit that ECTUA wholeheartedly supports the opening up of the market to free competition where no participant can abuse its dominant position. For the same reasons, ECTUA extols the separation of telecommunications regulation from the operations.

Secondly, ECTUA would like to draw the Commission's attention to the need to organise European representation in international fora in such a way that all parties concerned are fairly represented. Users have particularly in mind to be represented at the ITU (CCITT, WATTC) and at ISO.

Finally, ECTUA recognizes the need to improve the infrastructure and promote new services. With this objective in mind, ECTUA asks that regulations that currently inhibit utilisation of the infrastructure be removed without delay. It is only under such conditions that new services will develop rapidly and bring additional revenues to the infrastructure providers.

COMMENTS ON THE COMMISSION'S PROPOSED POSITIONS (Figure 13)

A-B) Principle of exclusive provision or special rights regarding the provision and operation of the network infrastructure and the provision of a limited number of basic services :

Users believe that no sector should be reserved definitively and that exclusivity or special rights should be accepted only as exceptions when they can be justified on the basis of superior efficiency. These should be subject to periodic review by an independent regulatory body. The general rule should be free competition.

Users are also of the opinion that the infrastructure and basic switched voice telephone services, where exclusivity and special rights would be applied, should be precisely limited in order to avoid uncontrolled extension. Value-added services in the area of voice storage or processing, for example, should not be an exception to the rule of competition.

Exclusivity and special rights should be matched with obligations and responsibilities for the provider with respect to timely delivery and maintenance, multiple interconnections, and the level and continuity of service, as well as the right of users to freely use the infrastructure and reserved services and in particular, leased circuits and interconnected private and public networks.

New transmission techniques not using the wired network should not be subject to exclusivity. Due to the potentially great benefits of satellite technology in creating a European telecommunications dimension, users strongly recommend that the use of such technology should not be constrained by granting exclusive supply privileges.

Cable television networks should be permitted to be developed in parallel to allow the emergence of new applications.

C) Unrestricted provision of all services :

Users fully support the general unrestricted provision of services over the telecommunications infrastructure under conditions to be defined in the framework of the OPEN NETWORK PROVISION concept (see annex 2).

- D) Strict requirements regarding standards for the network infrastructure and services provided in order to maintain or create European-wide interoperability :

Users ask that European standards be developed only in the absence of International Standards, and that these standards be enforced for the development of the infrastructure and services reserved to Telecommunications Administrations, for the attachment of terminals to the network, and for interfaces to be defined in the context of OPEN NETWORK PROVISION (see annex 2).

Compliance with interoperability specifications for terminal equipment and value-added services within the framework of OSI should be encouraged. In no case should the application of these standards prevent the development of advanced functions and capabilities outside the framework defined by the standards.

The users believe that the development of standards could be most effectively done within the framework of a European standards institute, independent in both its duties and financing, where each member party has an equal say (see annex 3). ECTUA is ready to participate in the work of developing the standards.

- E) Clear definition of general requirements for use of the network :

Users are of the opinion that it is necessary to clearly define the conditions under which the infrastructure should be made available to users and services providers, as well as the conditions under which they are authorized to use the infrastructure. This should include clear obligations on interconnection and access imposed on the providers of infrastructure and public services in order to allow the harmonious development of services on the national and international level.

The priority of the users is the definition of general requirements that fully take into account the needs and views of users.

The users reaffirm that the concept of OPEN NETWORK PROVISION should be developed with user needs and interests in mind, which involves user participation in the elaboration of the concept. For this reason, they ask that the structure of the groups SOG-T and GAP be modified to ensure that all interested parties can fully participate in the formulation of a European strategy (see annex 2).

F) Free provision of terminal equipment :

Users wholeheartedly support the rule of competition for the offering of all equipment that can be connected to the network infrastructure. There should be no exceptions to this rule. It is vitally important to clearly define the limits of the network infrastructure in such a way as to avoid its uncontrolled extension (see also A-B). For users, the infrastructure ends with the supply of wires to the users' premises.

Standardisation should allow the attachment of terminal equipment to the infrastructure on an international level or at least on a European level. Conformance testing of terminal equipment by an independent laboratory recognized by a European regulatory body should suffice for permission to install in all the countries of the Community. In order to reduce cost, the European regulatory body should in the future consider the accreditation of manufacturers' laboratories to test their own products.

Type approval specifications (NETs) should be limited to protection of personnel and the network.

G) Separation of regulatory activities and the operation of the infrastructure or the provision of service :

Users agree entirely with the principle of separating regulatory activities and the operation of the infrastructure or the provision of services (see annex 2). In this respect, providers of the infrastructure cannot be both judge and involved party. In addition, circumstances are favorable for the establishment of a European telecommunications policy. Users suggest therefore that, in addition to national regulatory bodies, an independent European regulatory body should be created, with equality of consultation and equality of redress.

The European regulatory body would propose recommendations and directives in the context of which national strategies would be developed. This body would cover, among other things, aspects of standardisation, tariffs, assigning exclusivity and special rights. The powers of the national and European regulatory bodies would be defined and reviewed in the context of the evolution of European integration.

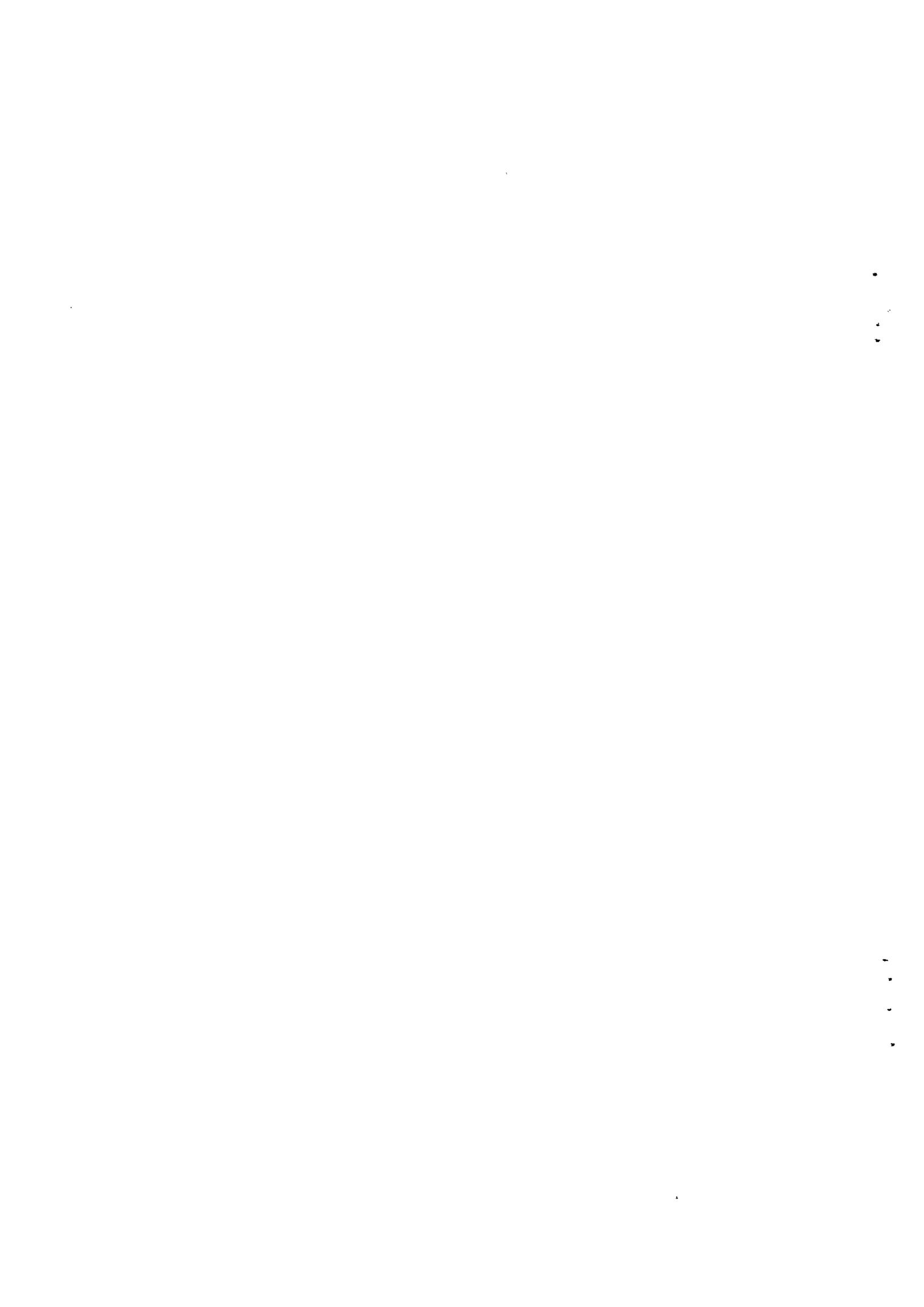
H-1) Strict continuous review of commercial activities of infrastructure and service providers :

Users are in total agreement that the market regulation of telecommunications infrastructure and services should be subject to the Treaty of Rome (articles 85, 86 and 90, among others). It is necessary to entrust the regulatory body with carrying out a regular review of the practices of suppliers so that abuse of dominant position can be avoided.

Users believe that there is a real danger that the competition rules will be distorted, since the infrastructure suppliers can offer services and terminal equipment. They do not see the need for it. In cases where this occurs, a strict control should be carried out to avoid any discrimination.

J) Common European policy :

A European telecommunications strategy (common policy) should be promoted vis-a-vis international bodies. This common policy should be prepared with the participation of all interested parties.



16.6.87

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## ECTUA POSITION ON EUROPEAN TELECOMMUNICATIONS POLICY

On the basis of the position papers

- ANFORDERUNGEN ZUR NEUGESTALTUNG DES TELEKOMMUNIKATIONSWESENS IN DER BUNDESREPUBLIK DEUTSCHLAND,
- MEMORANDUM DE L'ABUT POUR UNE POLITIQUE DE PROMOTION DES SERVICES DE TELECOMMUNICATION EN BELGIQUE,
- BASIC EUROPEAN TELECOMMUNICATIONS USERS REQUIREMENTS as seen by AFUTT (Association Francaise des utilisateurs du Telephone et des Telecommunications) and CIGREF (Club Informatique des Grandes Entreprises Francaises),
- EUROPEAN TELECOMMUNICATIONS USERS' REQUIREMENTS as seen by the UK representatives TMA and TUA,

the following principles are submitted as a framework for the development of a user oriented telecommunications policy in Europe:

### Principle 1 - USER CONSULTATION

The practices of national telecommunications network operators shall be adapted to the need of all European users with a worldwide orientation.

Users should be fully consulted on both strategic and specific issues and their views must be taken into account in order that their requirements are fully met and needed services are developed and provided efficiently.

### Principle 2 - STANDARDS

International standards shall be applied for the development of public telecommunication services, e.g. ISDN and mobile telephone both nationally and at the European level. They shall be used to promote the widest choice for users and service providers and should be produced with the participation of user representatives. Any service option which excludes international application shall no longer be implemented.

In the absence of international standards, the users request the establishment and implementation of NETs (Normes Europeennes de Telecommunications). Their introduction shall in no way inhibit the development of advanced applications outside the frame set by the standards.

### Principle 3 - TRANSBORDER DATA FLOW

Any legal or tariff barriers that hamper transborder telecommunications shall be removed.

### Principle 4 - FREEDOM OF USE

Maximum freedom in the use of telecommunication services and facilities shall be provided to the users and guaranteed by competent authorities independant from the network operating agencies.

#### Principle 5 - TARIFFS

Basic services shall be provided economically as allowed by technological progress and systems performance. Prices shall be related as closely as possible to the cost of providing each service. Border crossing surcharges for international telecommunications traffic and circuit rentals shall no longer be levied for intra-Community communications.

Volume based tariffs should only be considered in relation to specific consumption of resources. In any case they shall not be applied to leased circuits.

#### Principle 6 - BASIC SERVICES

New basic services in Europe shall be implemented in a coordinated manner after intensive consultation of user representatives on the basis of common international or European standards and service specifications.

Telecommunications policies should encourage the rapid development of new and innovative information services, and should not restrict the form or content of the information that is transmitted.

#### Principle 7 - SECURITY

The telecommunication network operators should accept responsibility for the quality, security and secrecy of communications. The user shall also be free to protect the security and secrecy of his communications.

#### Principle 8 - TERMINALS

Users shall have a free choice of terminal equipment amongst those types meeting official European standards. Type approvals issued in accordance with such standards by one national authority should be applicable throughout the Community without any restriction in application of relevant EC directives.

#### Principle 9 - SERVICES

To provide optimum telecommunications solutions for users, the widest choice of services shall be allowed on a competitive basis.

#### Principle 10 - REGULATION

Technological and regulatory changes currently being introduced and considered provide the opportunity for a common European telecommunication policy. This policy should be flexible enough to take account of further developments and should be produced with full participation of user representatives. The regulatory authority should be established in the European Communities responsible to the European Parliament.

## E C T U A

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09-09-1987  
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ECTUA point of view on the development in Europe of an Open Network Provision concept.

This point of view refers to the :

ECTUA position on European Telecommunication Policy dd. 16/06/87.

Telecommunication Concept for Europe

Value Added Service market should be developed within a framework of competition. A European regulating concept is necessary and has to determine the basic and value added services (VAS).

This concept should be defined for the present and future networks and should be developed conform to the users need and interests. This implies their participation in the elaboration.

Among other things, the users ask for harmonization of European Telecommunications and for free choice between VAS provided by service company or developed by themselves.

What the concept should be

This concept should offer free and non discriminatory access to the infrastructure and allow the elaboration of VAS which uses advanced technologies.

The requirements should be defined as underlying building blocks, that can be used by any VAS provider or by an individual user if users choose to develop VAS for themselves.

Since current networks have limited signaling and intelligence in the network, VAS providers and users generally should have maximum freedom in the use of transmission, switching services and facilities, and should be able to make the choice of which service to use.

Since future network will have increasing network intelligence and integration of customer access (e.g., ISDN), primary requirements will include "equal access" to signaling network intelligence in addition to access to the elements of transmission and switching.

More over the concept has to cover the following aspects :

1. Regulatory aspects.

(What is meant by basic service ? ...)

(Use without constraints of basic services included leased circuits, except for the provision of the public switched voice services)

(The availability and quality of interfaces in space and time (24h/24 h) )

2. Aspects relating to tariffs.

(Equal basis, namely on European level and accordingly to the type of basic service)

3. Technical aspects.

(Particularly the publication of interface specifications).

4. Access for new technologies (the process of obtaining authorization for the elaboration of means of technology, which is not covered by formal standards and results from the evolution in the field of technology).

The necessary technical developments

The ONP concept results from the technological evolution (imbrication of Telecommunication and Software aspects). The need for an architectural model is, however, entirely independent from technical aspects which, for the time being, undergo a more rapid evolution.

The decisional and organisatory framework is very important.

Efficient access at reasonable cost to transmission and switching elements of the telecommunications operator network is a primary requirement. Thus, transparent transmission of the users information, must be offered to VAS providers whether the user accesses the network via switched access, leased circuits or, in the future, an ISDN "B" or "D" channel. Access to network signaling information is becoming an increasing requirement and is described in the interface to be defined.

Network supervision and customer loop status information can be a valuable tool for VAS providers and should be made available to them. VAS providers require a range of diagnostic and control information from telecommunication operators in order to achieve their own network management objectives. This requirement will increase in the ISDN time frame as VAS providers become more dependent on the inherent network intelligence.

#### Interfaces which have to be defined

In current networks, interfaces to transmission and switching elements are generally defined and may be adequate but in some cases may be packaged or bundled in a way that makes them impractical or too costly to use. Increased versatility should be provided.

In future networks, such as in ISDN, additional interfaces and/or extensions to the proposed standards may be required to provide access to signaling capabilities as well as data packets being transported over signaling channel. It is important that the VAS provider have access to ISDN "D" channel to obtain access to a wide range of signaling information (such as, calling number identification) in some efficient, standardized form to ensure that the increasing intelligence being incorporated in the network will benefit users accessing any VAS, including those of the telecommunication operator. When operators develop interfaces (like TCAP) between their basic switching machine and application processors in order to provide their own value added services, access via this same interface standard should be available to competing value added service providers, ISDN reference point M in I.310 relates to this point. Users consider the same standards should apply at reference points "P" and "M". If an operator uses a data base about their monopoly customers for advanced applications these data bases should be made available in some controlled manner to outside users.

In all cases VAS of all providers should be based on interfaces and terms/conditions satisfying the following parameters in an equal manner :

- i) Interface functionality,
- ii) Unbundling of basic service,
- iii) Equal tariffs, cost oriented,
- iv) Technical Characteristics,
- v) Installation and Maintenance,
- vi) End User Access,
- vii) Operational availability,
- viii) Minimization of transport cost,
- ix) No discrimination,

### Impact of ISDN

On one hand and as stated above, the concept should not be technology dependent, but should on the other hand follow the European telecommunication strategy taking the present situation and future developments into account. It can be provided using current network approaches by enabling access to unbundled transmission and switching in an equal manner. Current interfaces and technologies can generally be used if an effort is made to ensure that VAS provided by alternative providers are able to utilise the same unbundled transmission and switching elements as VAS provided by telecommunication operator. As stated above some repackaging or flexibility may be required but technological invention should not be necessary.

With respect to newer technologies, such as ISDN, some changes and or increased flexibility may be required. ISDN could be implemented in an open or in a closed manner. For example, if equal access to the signaling function and to the data packets on the "D" channel are not offered, alternative VAS services will not be provided on an equal basis. If alternative providers are not given equal access to such functions, they will not be able to offer competitive services, and users will be deprived of competitive alternatives. There is time to ensure that ISDN standards/recommendations ensure openness and to promote implementation of ISDN in a manner that will be consistent with the developed concept.

In order to fully analyze the impact of ISDN on ONP, it will be necessary to develop a list of interfaces required to satisfy ONP and compare those with the interfaces planned in the ISDN environment.

### Users and Service providers participation

ONP can provide Europe with the opportunity to be a major world-wide influence in VAS and to provide European users with a wide range of cost effective, innovative VAS. This can only occur if all elements of the European business and user community can fully participate in the definition of the model and build VAS on an open network. If instead, provision of VAS is reserved for telecommunication operators or provided on a preferential basis by telecommunication operators, then the capabilities and services that could be developed by other VAS providers will not be realized.

### Independent authority

An european authority independent of operators and services companies should exercise control on the application of the concept in the prevention of discrimination.

25-11-1987

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ECTUA Point of View on a  
European Telecommunications Standards Institute

ECTUA, as users association, supports the initiatives to improve the process of standards setting in Europe. We believe that users' participation in the process is a positive step forward to properly identify users' requirements in the standards area.

We see ETSI as a positive evolution of the CEPT process in setting up NETs.

We believe that CEPT work on functional standards has to continue with submission to CEN/CENELEC for voting as ENVs under the current work program of ITSTC.

In the short term, we see the role of ETSI as an efficient NETs making body.

In the long term, we believe that a European Standards Institute (ESI) should be set up to coordinate standardisation in both information technology and telecommunications (ENs, ENVs and NETs).

While recognizing that a consensus process (like CEN/CENELEC's) in the approval of standards takes more time than a voting mechanism, we believe that the approval of standards by consensus is a way to ensure high quality and acceptability of them by all interested parties, including manufacturers. However, taking into account the need for timely production of standards, a carefully developed procedure of weighted majority voting appears to be the most promising approach.

Concerning the voting,

We disagree with the CEPT proposal to assign 50 % rights to Telecommunications Administrations, with the rest split between users and industry. This split will, in fact, confirm the dominance of Telecommunications Administrations in the NETs setting process.

We believe that linking financial contribution to voting rights will be detrimental for the users that normally have less financial resources to 'buy' votes than other dominant players have.

We will not object to an adjustment mechanism that ensures equal rights to all interested parties, while considering differences in financial capabilities, like the ITU finance method.

On the last base, ECTUA is in favor of applying voting to the management of ETSI, to the setting of priorities, and to the approval of standards produced.

On ETSI organization,

ECTUA is in favor of an efficient permanent Secretariat. We believe this is key for the success of ETSI.

We believe that equality of opportunity to participate in the drafting of standards should be offered to experts representing users, industry and Administrations.

We do not support standards drafting by permanent or long term assigned experts. Permanent staff or long time assignees will lose contact with the continued evolution of technology.

We are in favor of a member's contribution in terms of people's time, as a substitute to financial contribution.

Adoption of standards

ECTUA believes that giving legal force to approved standards is a matter of Community and national legislation. We believe that a European regulatory authority, rather than PTTs, should take current TRAC responsibilities of giving legal force to standards. Users should be involved in this process.

International dimension of standards

ECTUA is in favor of European Standards, but we do not want Europe to take a divergent path from the rest of the world. When European standards are created separate from other standardisation bodies, then it is of utmost importance that the European standards are also submitted as contributions to those standardisation bodies. Therefore we strongly suggest ETSI to provide input to CCITT and to ISO/IEC.

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DRAFT EEA RESPONSE TO CEC GREEN PAPER  
ON THE DEVELOPMENT OF THE COMMON MARKET FOR  
TELECOMMUNICATIONS SERVICES AND EQUIPMENT

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European Commission Paper on the Development of the Common Market for Telecommunications Services and Equipment

Introduction

The Consultative Green Paper, COM(87)290 Final, was published by the European Commission in Brussels on 30 June 1987. Its purpose is to initiate a debate which, recognising the vital contribution of improved European telecommunications to the economic well being of Europe, will enable the Commission to consult widely and, by the end of 1987, generate plans for the achievement of:-

- a harmonised and competitive market for telecommunications services and equipment by the 1992 target date for completion of the single internal community market;
- a European telecommunications industry capable of competing with USA and Japanese suppliers in both domestic and export markets;
- European telecommunications infrastructures and services that are vital to the achievement of European economic development and social policies.

The Current UK Environment

The Green Paper identifies the progress already made towards a competitive telecommunications environment in several member nations, especially in the UK. It recognises that the UK already has:-

- a liberalised and competitive equipment supply market (including the first telephone);
- a competitor to the principal Public Telecommunications Operator (PTO), itself a private company rather than a national agency;
- a series of General Licences for Value Added Data Services (VADS) and Branch Systems as well as a number of specifically licensed network operations.

There are, however, certain key features of the UK environment which are not individually mentioned, but which have a bearing on the view to be taken of the Green Paper by any UK based organisation.

The UK government's retention of 49.8% of the shares of BT until at least 1988 and their duopoly policy have led to decisions that:-

- Simple Resale of voice telephony using spare capacity on privately leased network lines is not to be allowed before 1989 at the earliest.
- No new PTO will be licensed to provide basic voice telephony before 1990 in order to give the newer PTO, Mercury Communications Limited (MCL), a fair chance to establish itself.

## Views on the Green Paper

We support the pro-competitive approach of the Green Paper and our comments seek to reinforce this, rather than to criticise details. We welcome the willingness of the Commission to consult with users and with service and apparatus suppliers as well as with Telecommunications Administrations in formulating its policies. We believe that the markets for telecommunications service, information services and apparatus should be examined as a whole. We also believe that both the initial statement and approval of the policies and the subsequent detailed development of formal proposals to implement them must be considered carefully.

Our initial comments are set against each of the Proposed Positions outlined in Figure 13 of the Green Paper.

A) Acceptance of continued exclusive provision/special rights for Telecommunications Administrations (TAs) in provision and operation of network infrastructure

We accept the need for continued privileges for TAs regarding public network infrastructure provision and operation and strongly support the need for safeguarding its integrity and financial viability. However, the definition of 'network infrastructure' needs careful and continuing refinement. We agree that the situation regarding satellite communications needs further analysis before any firm position can be reached.

B) Acceptance of continued exclusive provision/special rights for TAs in provision of a limited number of basic services

We are pleased that the Commission has concluded that no stable 'natural' boundary is possible between reserved and competitive services and that exclusive provision by network operators must be rigorously justified as essential to meeting the universal service obligation. We agree that voice telephone service is the obvious candidate for treatment as a 'reserved service'. It is essential that the desirability, justification and practicability of this be kept under continuous review in the light, inter alia, of technological developments.

C) Unrestricted provision of all other services

In the area of competitive services we fully support the principle that TAs should compete on even terms with other service providers. Fair trading conditions must be applied to TAs, other service providers and public and private equipment suppliers such that they are all placed on the same footing.

D) Standards for network infrastructure and services

We qualify this position by emphasising the distinction between:-

- 1) standards under Directive 90/361/EEC for the avoidance of harm to the network and interference to its users, which must be mandatory;
- 2) a requirement that operators of 'reserved services' should offer those services in accordance with open interoperability standards but have the option to offer them in other ways also;
- 3) interoperability standards under other EC legal instruments which users can have the opportunity to require from their suppliers, whilst retaining the choice to specify alternative requirements.

It is agreed that there is a need to achieve and maintain Community-wide interoperability of services and terminal equipment. To achieve this there is a need for harmonised standards for interfacing to the services and for attachment to the networks of terminals which can apply those services. This principle applies in the context of both reserved and competitive supply of services.

It is noted, however, that over-specification in general and in particular of attachment requirements adds unnecessary product costs and will inhibit innovation. This must be avoided.

Furthermore, account must be taken of the distinction between requirements for existing services having an historic installed base and those new services where international harmonisation may be more easily achieved. In the absence of European standards for access to these historic networks, the publication of interface specifications is, of course, essential, to ensure that there is equality of opportunity in tendering for supply.

E) Requirements for provision of competitive services and Directive on Open Network Provision

While we welcome the concept of Open Network Provision, we believe that detailed discussions will be required to ensure that clear and workable arrangements may be formulated. ONP covers three broad areas: technical interfaces, tariff principles, and usage restrictions. The complexities of each of these areas alone means that formulation of a coherent set of ONP proposals will be by no means easy. The question of tariff principles, for instance, will require careful consideration and balancing of potentially conflicting goals, and attempts to reach Europe-wide decisions about network boundaries will raise some tricky problems.

We also draw attention to the need for a coherent numbering plan and customer-to-network signalling system in the pursuit of effective and economic interoperability.

F) Unrestricted provision of type approved terminal equipment

We strongly support the open competitive provision of terminal equipment on a Community-wide basis. We believe that exclusion from this of the first telephone should be terminated as soon as possible

as its continuation would otherwise sustain existing monopoly power over other areas.

This Position also requires the definition of network boundaries for landline, radio and satellite transmission which maximise opportunity for competitive provision.

G) Separation of regulatory and operational activities of TAs

We support this Position and its recognition by the Commission as fundamental to achievement of its policy objective. It should review its own organisation to ensure effective oversight of national regulatory authorities. In particular, radio frequency spectrum planning activities should be done on a European basis, not in the present fragmentary way.

H) and I) Strict continuous review of commercial activities of TAs and private providers under appropriate provisions of the Treaty of Rome

We agree that the relevant provisions of the Treaty should be fully applied to both public and private network operators. The question of enforcement needs some consideration. It is essential that mechanisms are established at the Community level to ensure that both the full intent of the policies and their timescales are met by all Member Governments. The functional separation proposed in G) will necessitate institutional change in some Member States and this should be carried out with a view to safeguarding competition in a European, not just national, context.

We note that UK experience has shown that it is not practicable to codify, for example, precisely what cross-subsidisation is unfair, so that judgement is needed to implement this policy and it can only be exercised by the separate regulatory authorities envisaged by the previous position. An essential feature of this UK experience is the need for financial separation of business areas within TAs and continuing transparency, at least to the regulatory authorities.

J) Application of the Community's common commercial policy

We recognise the desirability for Europe to present a strong and coherent front in international negotiations and believe that this can best be achieved through a continuous process of consultation and negotiation; this will doubtless be facilitated by gradual implementation of the various aspects of Community telecommunications policy. However, this should at present be without prejudice to the rights of Member Governments to argue their separate positions forcefully in international organisations if consensus is not achieved in Community negotiations. Moreover, all telecommunications operators, including TA's, should be free to make contracts outside the Community as they see fit, subject to existing requirements under the Treaty of Rome.

### Other Issues

We refer below to a few other issues of concern in the Green Paper which are not specifically addressed in the above Proposed Positions. We will also comment separately on the proposed creation of a European Telecommunications Standards Institute - a proposal we welcome with the qualification that its status, role, terms of reference and management structure need careful study and that it should, within a reasonably short timescale, become independent of any one existing body.

### The Network Boundary

The first issue to be resolved in progressing towards a Directive on open network provision is the definition of the boundary of the network, particularly in the context of digital technology. If liberalisation of the supply of terminal equipment is to be meaningful it is crucial that the boundary be defined so that the network includes only the minimum amount of equipment on customer premises. This equipment should be sufficient to allow operators to terminate and test their networks and to enable them to protect their networks from all connected apparatus which complies with generally applicable electrical safety requirements. Such a definition will make clear the distinction between terminal equipment, which is open to competitive supply, installation and maintenance, and network equipment. Terminal equipment would be subject to mandatory standards for attachment; networks, not governed by these standards, would be intended to be subject to an appropriate Directive on interface standards to reflect the Open Network Provision concept.

The Commission should urgently initiate a study of this matter with the full participation of all interested parties. Its aim should be to develop an initial definition of the Network Termination Point (NTP) of a digital network and to agree the principles by which future redefinitions can be evolved as technology progresses.

### Alternative Infrastructure - Cable and Radio

The Green Paper is unclear as to the future status of local cable systems and responsibility for their infrastructure. In the UK, local area cable systems are developing without making the full investment required to satisfy basic telecommunications needs and thus the implications of integrating such systems into a national telecommunication service. Furthermore, many private radio networks already exist and interconnection of these with national telecommunications networks must be considered.

To enable such systems to be fully integrated into a national switched network, due regard needs to be taken of several factors including transmission performance and numbering plans. The impact that such systems could have in Europe needs further study because such systems, if

licensed for telephony and data purposes, could play a part in the development of privately operated business networks.

In the context of drafting the Directive on Open Network Provision the Commission should recognise the need for coherent attention to adequate availability of radio frequency spectrum and planning of its allocation. A broad long-term study is needed to take account of at least trunk radio systems, pan-European cellular mobile services, paging and messaging services, cordless telephones, universal personal communicators, radio local area networks, satellite services and rural radio services.

### User Orientation

We think it important that more should be done to identify user demand for new developments such as ISDN and Integrated Broadband Communications, so that there is commercial as well as technological momentum for speedier progress. There should similarly be more emphasis on the development of Europe-wide services on encouraging not only the Administrations but many other entrepreneurs to provide services which are either being requested now by users or for which information providers and others foresee opportunities to satisfy user needs.

### Open Markets

#### 1) Within the Community

There is a risk that, as liberalisation proceeds at a different pace in each member country, especially as regards allowing more competition in providing basic as well as value added services, the equipment suppliers in the more liberalised countries could be at a disadvantage. This would occur if competing operators in those countries chose their suppliers on purely commercial criteria whereas Administrations in other countries took national origin into account in their sourcing. As the Community aims to create an open market in Europe for equipment and services, we consider that no supplier within the Community should be denied the opportunity to participate in the market for equipment and services, including supply to TAs. The Commission should ensure that this market is both open and fair.

#### 2. Worldwide

UK experience has shown that the very act of creating an openly competitive, coherent market makes that market more vulnerable to import penetration, especially during the transitional phase. However, we do not wish to press for restrictions in international trade agreements to provide protection. Actual abuses of those agreements should be disallowed. At the same time, the whole Community should press vigorously for removal of restrictions by our international competitors on access to their internal markets. Some means of achieving concrete reciprocity must be sought as a counterbalance to opening European markets to competition from outside.

### Conclusion

Change is desirable and inevitable and it requires greater regulatory coherence throughout the Community. Separate regulatory authorities are required in each country where they do not already exist, but as far as possible existing mechanisms should be used at the Community level. If any new institution is to be created it should be pan-European and not confined to the Community.

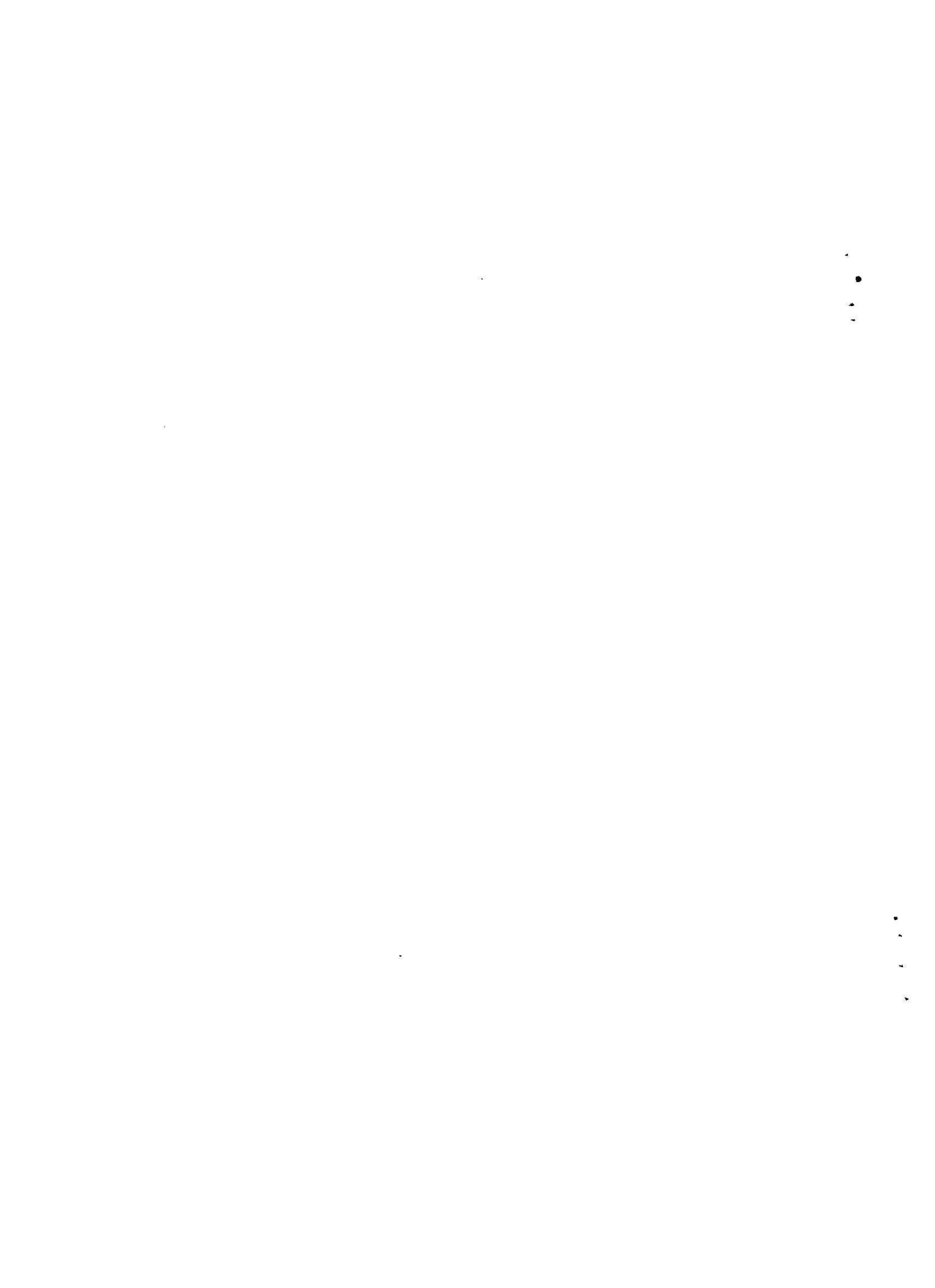
Any changes need to be carefully co-ordinated since their purposes and effects are interdependent. As a simple but crucial example, the absence of suitable standards at the right time would be a major impediment to progress in other areas. Also, failure to find effective solutions to problems in the area of copyright/IPR, fraud and security will inhibit or retard the growth of services and diminish their overall economic effect.

Thus, a fully timed implementation plan needs to be evolved which takes account of both the further preparatory work needed and the inter-dependencies of the changes to be made.

These changes need to be introduced in an evolutionary and well understood manner so as not to create a destabilised situation, even on a temporary basis. Such a situation would not only impede the proper development of telecommunications in the Community but could also threaten the survival of important elements of manufacturing industry which have such a vital contribution to make.

After reviewing all the responses it receives, we hope the Commission will next produce at the same time drafts of all its intended submissions to the Council and a timetable for their phased implementation before proceeding with any executive action.

28 August 1987





EUROPEAN FREE TRADE ASSOCIATION  
ASSOCIATION EUROPÉENNE DE LIBRE-ÉCHANGE

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THE DEPUTY SECRETARY-GENERAL

BOJ 13/88

3 February 1988

EC Green Paper on telecommunications

Dear Mr. Carpentier,

I have been asked to inform you about the preliminary reactions of EFTA countries to the EC Commission's Green Paper on the Development of the Common Market for Telecommunications Services and Equipment.

The Green Paper has been received and studied by relevant circles in EFTA countries with great interest. Particular attention has been given to section IX:3.1 of the paper concerning the Community's relations with EFTA countries in the field of telecommunications.

During the first round of discussions on the Green Paper within the competent EFTA bodies it was generally agreed that co-operation between the EC and EFTA countries in telecommunications should be further developed as a part of the creation of a dynamic European economic space as defined in the Luxembourg Declaration. The EFTA countries noted that in many areas covered in the Green Paper common efforts are already undertaken in the framework of CEPT, CEN-CENELEC, the RACE programme and other research and development programmes. In addition such fields as co-operation on standards and mutual recognition of tests and certificates, public procurement and application of telecommunication technologies in trade facilitation already form part of the follow-up of the Luxembourg Declaration. The EFTA countries feel that the initiative taken by the EC Commission provides an opportunity to intensify co-operation in these areas.

Mr. M. Carpentier  
Director-General  
Directorate General XIII  
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Besides developing current co-operation EFTA countries are also interested in examining on which other telecommunication-related issues the EC and EFTA countries could start a search for common or parallel solutions. Internal discussions in EFTA on this question have been started and we expect to be in a position to give you more information about the EFTA views during the coming months.

Yours sincerely,



Berndt Olof Johansson

Mr. M. Carpentier

December 17, 1987

**ERT ANSWER TO EEC COMMISSION ON "GREEN PAPER ON THE DEVELOPMENT OF  
THE COMMON MARKET FOR TELECOMMUNICATION SERVICES AND EQUIPMENT"**

The RoundTable of European Industrialists (ERT) welcomes the "Green Paper on the Development of the Common Market for Telecommunication Services and Equipment" issued by the Commission of the European Communities.

The unification of telecommunication services throughout Europe is a fundamental part of the effort oriented to the European market integration expected for 1992.

The RoundTable of European Industrialists has already expressed its opinion through the paper "Clearing the Lines. A users' view on Business Communications in Europe" published in 1986.

Many of the problems indicated in the ERT paper are taken into consideration by the Green Paper.

The competitiveness of the European industrial companies is today strongly dependent on the possibility to have cheap and advanced communication services throughout Europe.

The ERT recommends the Commission to do all efforts in order to achieve the objective of accelerate the process of unification and innovation of the European communication services required by the European users.

For this purpose the Commission should ask the European users to participate to the preparation of future activity and programs on the subject.

As far as the proposal to establish a European Telecommunication Standards Institution, the ERT welcomes the initiative and believes that such institute should be established with the participation of CEPT, users and industry and should evolve into an overall institute for information technology standards.

For what regards the concept of basic services to be reserved to the Telecommunication Administration it should be considered the effects of technological evolution that are drastically changing the traditional separation of voice and data services.

An example: network management is provided by software running in the users computers. Therefore should the business users be allowed to multiplex voice and data in their private networks to achieve the best resource utilization, this will benefit both users and infrastructure providers by minimizing investments. This means that voice services should not be basic services towards business users.

The European users have to take full advantage of liberalisation policies in the area of VAN/VAS, that can adopt common rules at European level.

The ERT fundamentally agrees on the necessity of a separation between regulations and operation activities by Telecommunication Administrations.

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# EUROPEAN SERVICE INDUSTRIES FORUM

## ESIF Comments on the EC Green Paper

presented by Gunter A. PAULI  
CEO, European Service Industries Forum

European Parliament  
Brussels, 04.12.1987

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1. The debate on telecommunication policies should not focus on privatisation versus public ownership and monopoly. The real key issue is flexible access to cost efficient telecommunication services. The Scandinavian PTT's offer the widest and the most cost efficient telecom services to business, even when operating under a socialist government, with a monopoly status. Six years of a rather liberal coalition in the Belgian government has not done much to improve efficiency and flexibility.

2. When discussing telecom policies for Europe, the importance of telecom and computers for small and medium sized companies must be taken into account. Indeed, the second largest cost for all companies, active in new and tradeable services is precisely computer and communication. Since two thirds of all new employment in Europe has in recent years been created in companies with less than 20 persons on the payroll, the policies must be geared towards their needs. This does not mean that the interests of the large users and the manufacturers must be neglected, but it does indicate that the debate which is dominated today by these two interest groups does not take into account the complete picture of the needs of all business services .

3. Telecommunications cannot be separated from computer technology and home electronics. It is the merger between the three that will provide an appropriate new infrastructure for our economy. Therefore, the debate on the green paper on telecom should not neglect the convergence with other technologies. Even IBM could not on its own, integrate telecom technologies and know-how and had to purchase Rolm and MCI in order to have access to this complementary know-how. How could the PTT's pretend to provide the needed telecom services without strategic alliances with industry. Telefonica in Spain, a country led by a socialist government, has pursued the most dynamic policies.

4. The debate on leased lines is wrongly focussed. We are here confronted with an enormous waste in telecom history. Thousands of leased lines are only used for an average 4 hours a day, because laws prohibit the resale of this unused infrastructure. In a period of austerity there is an urgent need to find way to stimulate a much more intensive use of leased lines. This would first of all benefit the small and medium sized companies. France has taken steps to permit the resale of excess leased line capacity on the condition that the part of the invoice covering telecom costs does not exceed 15% of the total, i.e., that 85% will be value added services offered by mainly the computer infrastructure of the reseller.

## EUROPEAN SERVICE INDUSTRIES FORUM

5. Large companies can easily afford the installation of a custom tailored computer and telecom infrastructure. In the industrial sector, expensive infrastructural needs cannot be made available throughout the whole country. Hence a need for the development of industrial zones which offer a highly flexible and sophisticated infrastructure for industry likewise in order to serve the needs of service companies mainly of small upcoming service firms which can quickly emerge as major generators of employment and trade. Europe will have to install service parks. This concept has found its first partial applications in France and in Belgium, although a series of rules and regulations still block their full operation. Therefore, ESIF proposes that the deregulation of the telecoms be in the first place applied to those service parks. This would have an immediate impact on the competitiveness of service companies and offer an excellent test-case for further applications, nation- and European wide.

6. Europe has finally decided on a common standard for mobile communications which will start to be operational from 1993. This is a major step forward, but in the meantime, business will suffer from this long delay. Meanwhile the unified Scandinavian system with 450.000 users is transforming the way small companies do business, both in their home market and abroad.

7. Europe should note that it is not only limiting the competitiveness of European companies by its long and difficult telecom integration, but that it is also losing out to the Japanese who have formed NTT International, a consortium of fourteen companies, lead by NTT, but combined with engineering, computer, trading and software companies, ready to supply complete systems to third world countries. The first contracts with the People's Republic of China and Brunei have already been signed.

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EUROPEAN SERVICE INDUSTRIES FORUM

V.Z.W.-A.S.B.L.

the network of performing service companies

Mr. M. Carpentier  
Director General DG XIII  
Telecommunications, Information  
industries and innovation  
EEC  
B-1049 Brussels

Keerbergen, October 12, 1987

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Dear Mr. Carpentier,

I write to you in my capacity of chairman of the European Service Industries Forum. ESIF set up in January 1986, brings together a group of leading and performing service companies with the broad objective of creating a "service friendly policy environment". ESIF's credibility and legitimacy stems from the success of its twenty three members on the market. You were kind enough to address our audience at the European Service Symposium held in Brussels last year.

ESIF has studied the Green Paper of the Commission and considers that it is a highly valuable contribution towards the development of the EC market for telecommunications and services which it wholeheartedly supports. It fully shares the assertion in the Green Paper that telecommunications -and notably high value added and information services- have a major impact on the competitiveness and tradeability of services in general as well as on the location of service activities. If Europe is to vigorously develop its service industries it must enjoy an adequate and efficient telecommunications infrastructure. The strategic importance of telecommunication services is underlined by the fact that the second most important cost in all new services companies are telecommunications and computer related.

Whilst ESIF welcomes the detailed proposals of the Commission with respect to telecommunications, it wishes to emphasize in particular the key role of tariff policies of the PTTs. For its part it is in favor of expanding competition by authorising, on grounds of efficiency, resale on international private leased lines so as to bring prices more in line with costs. This is of particular importance for small and medium service enterprises. These are precisely the firms which are creating many new employment opportunities and which have a limited mobility and investment capacity compared to larger service companies.

With respect to mobile communications, ESIF regrets the slow pace of progress towards Community-wide compatibility. The Scandinavian countries already have an impressive headstart in this part of the telecom business and their new service companies are bound to enhance a competitive advance until the introduction of public digital mobile communications at the EEC wide level.

# EUROPEAN SERVICE INDUSTRIES FORUM

To the attention of Mr. M. Carpentier

12.10.1987

As regards videotex, compatibility must be vigorously pursued between the various national systems which are already in operation and European wide standards need to be developed without further delay. The remarkable breakthrough of some of these networks such as France's Minitel, makes this all the more important. Minitel is the first proven success reaching 2.5 million homes, offering by now 3,000 services of which 95% did not even exist 3 years ago.

ESIF urges the Commission to impress on the Member States the vital need for speedy action in the direction suggested. For its part it will contribute to the best of its ability to convince the Member States Governments rapidly to introduce the necessary changes in their regulatory systems.

ESIF would welcome an opportunity to be invited to a hearing with the services of the Commission with a view to engaging in a mutually advantageous dialogue.

Yours Truly,

Bessel Kok  
President ESIF  
CEO S.W.I.F.T.

*P.O. M. Thys*

Gunter A. Pauli  
CEO ESIF

*Gunter A. Pauli*

**Common Position Paper of the Round Table Companies  
to the CEC "Green Paper" on Telecommunications**

The twelve companies of the Round Table on Information Technologies and Telecommunications welcome the initiative the Commission of the European Communities has taken for the strengthening of European Telecommunications by presenting its "Green Paper on the Development of the Common Market for Telecommunications Services and Equipment" (Document XIII/197(87)). It will contribute significantly to the development of a strong coordinated European policy.

The Twelve agree that the fast evolution not only of technology, but even more of services, the convergence of telecommunication and data processing and the increasing importance of telecommunications for the economy in Europe and in the world necessitate an appropriate development and adaptation of the structures presently existing in Europe. They agree in particular that the status of the Telecommunications Administrations in Europe has to be developed with two objectives in mind:

1. The early availability of the competitively supplied services that European users will require and
2. The creation of the best environment for the European telecommunications industry to strengthen its position and competitiveness both in Europe and worldwide.

The Twelve have thoroughly examined the general and the specific propositions the Commission has laid down in its "Green Paper" document.

Whilst fully supporting its general orientation, the Twelve want to stress that a considerable amount of detailed work will have to be done in order to elaborate the best approaches in the different areas the Green Paper has identified. The Twelve hold themselves ready to participate fully in such work.

The general comments the Round Table of the Twelve offers at this stage are summarised hereafter.

They refer to Figure 3 on pages 022 to 025 ("Proposed Positions") of the Green Paper's Summary Report.

Additionally, the Twelve have commented on the proposal to establish a European Telecommunications Standards Institute. This response will be found as an Annex to these general comments.

To A: "Network Infrastructure"

The Green Paper proposes the acceptance of continued exclusive provision of special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure.

The Twelve can accept the general concept of this paragraph provided the special privileges of the Telecommunications Administrations are counterbalanced by certain defined obligations for

- overall network availability and reliability at reasonable competitive cost
- Europe-wide network compatibility and coherence
- public network integrity.

Wherever Administrations retain special privileges in respect of network infrastructure, the Twelve question whether the Administrations should be permitted to manufacture and supply network equipment or terminals without restriction. The Twelve suggest that to prevent unfair discrimination, participation of industry should be secured

1. in the setting of standards in Europe for terminals and attachments
2. in defining and planning main functions and concepts of telecommunications infrastructure and equipment.

Additionally, provisions should be enacted that would prevent the cross-subsidisation of "competitive services" by "privilege (restricted) services".

This will enable industry to plan new products and services and to compete effectively on a worldwide scale.

As far as two-way satellite communications are concerned, the Twelve do not support the idea of case-to-case considerations since this would create uncertainty. They would strongly recommend consistent basic rules in this field, based on further clarification of the general understanding and content of the "network infrastructure" and its relationship with other adjacent infrastructures such as local cable and cellular mobile radio.

To B: "Reserved Services"

The Green Paper proposes acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision of a limited number of basic services.

Here the general approach is acceptable to the Twelve on condition that a stable and simple definition of what is a "basic service" will be worked out. We suggest that this should be done by a suitably independent authority and that as a principle the Administrations' special rights should be limited to the services so defined.

The Twelve acknowledge, however, that for economic and social reasons, the "voice telephone service" is an obvious candidate for inclusion in the basic services.

The general concept of a continued exclusive provision or special rights for the Telecommunications Administrations regarding a limited number of "basic services" is acceptable as an interim solution to be reviewed as it becomes increasingly impractical to distinguish voice and data in the ISDN narrowband and broadband environment.

To C, D, E: "Competitive Services"

The Green Paper proposes the free (unrestricted) provision of all other services ("competitive services", including in particular "value-added services") within Member States and between Member States (in competition with the Telecommunications Administrations) for own use, shared use, or provision to third parties.

This paper treats the paragraphs C, D and E as one single subject. The Twelve understand "competitive services" to be all services except those defined under B.

The Twelve conceptionally agree with an unrestricted and fair provision of competitive services, but again underline that an enormous work is still necessary in order to define details and - especially concerning a European concept of Open Network Provision - to fill out the necessary regulatory framework.

It is industry's view that the success of all value-added services strongly depends on fast and unambiguous standardisation throughout Europe at an international level to which the twelve companies are pleased to contribute through their joint efforts in SPAG Services.

European Industry and Commerce must seek to take full advantage in the field of VAN/VAS of possible liberalisation in Europe. But it is a strong requirement to adopt a common policy and common rules and regulations in all European countries.

With that as an objective, the strategy must be to ensure the possibility to configure multivendor networks, by an appropriate standardization policy, in the direct continuation of the present EEC strategy.

To the extent possible all VAN/VAS should conform to open systems standards (functional standards) as EN/ENV and/or ISPs (International Standardized Profiles) as soon as they exist.

Steps should be established in liaison between all parties involved in order to permit faster processing of standards, otherwise the conformance clauses to open system standards will have no meaning.

Open Network Provision (ONP) raises major issues which the Twelve suggest require further study and agreement between all interested parties.

The minimization and equalisation to the extent possible of tariffs for infrastructure services all over Europe is a key to the success of European VAN/VAS.

#### To F: "Terminals"

The Green Paper proposes the free (unrestricted) provision of terminal equipment within Member States and between Member States (in competition with Telecommunications Administrations), subject to type approval as compatible with Treaty obligations and existing directives. Provision of the first (conventional) telephone set could be excluded from unrestricted provision on a temporary basis.

Industry agrees with the general approach of this position, but has considerable doubts about the justification for exclusion of the first telephone set and the competitive advantage this would give the Administrations.

If the Telecommunications Administrations compete on the market as terminal equipment suppliers, fair competition must be guaranteed (e.g. no cross-subsidising, transparent commercial separation of monopoly and competitive activities).

The necessity of the implementation of common interfaces and connectivity throughout Europe is underlined for all types of networks.

To ensure fair competition and to protect users it will also be necessary that individual Member States are not allowed to interpret and apply common standards and type approval procedures more liberally than other Member States.

To G: "Separation of Regulatory and Operational Activities"

The Green Paper proposes the separation of regulatory and operational activities of Telecommunications Administrations.

Industry fully supports this separation and sees the need of evolving a harmonised, positive ruling for the different regulatory activities, including independent standards setting arrangements at a European level.

To H: "Review of Telecommunications Administrations"

The Green Paper proposes strict continuous review of operational (commercial) activities of Telecommunications Administrations in the context of European competition law.

The Twelve feel that, in order to ensure fair competition, Administrations should separate provision of the network and of basic services from the supply of equipment and of other services which may be procured on a competitive basis.

To I and J: "Competitive Rules" and "Commercial Policy"

The Green Paper proposes the strict continuous review of all private providers in the newly opened sectors and the full application of the Community's common commercial policy to telecommunications.

The Twelve suggest the paper should explicitly mention that free competition must also be guaranteed for installation and maintenance of terminal apparatus.

Conclusion

Though the "Green Paper" possibly raises more questions than it answers, the Twelve agree to the document as an important contribution on the subject.

However, an enormous amount of clarification work remains to be done including a detailed implementation plan. It is recommended that the final document should also propose a planned timescale for an orderly phased transition.

Industry requires to participate in the various phases of forthcoming works with the support of their competence as suppliers of equipment to the business community and to the PTTs on one side and as users of Information Technology on the other side.

ANNEX**European Telecommunications Standards Institute**

The Twelve have considered the proposal to establish a European Telecommunications Standards Institute, and welcome this initiative.

The Twelve believe that this Institute should be established with the participation of CEPT, users and industry. To accelerate its procedures, it is felt that decisions should be achieved using a weighted voting principle.

Furthermore, the Twelve suggest that the voting structure should be such that it shows emphasis towards the views of the Public Network Operators in respect of the definition of the network infrastructure, and towards the views of users and suppliers in respect of attachments to the network.

The Twelve recognize the need for an as-yet-unidentified authority that determines the terms of reference, and otherwise monitors the performance of, the new institute.

To ensure fair competition between public and private organisations, the Twelve give importance to the involvement of the CEC's Directorate-General IV, at least in the policy aspects of those parts of the standardisation process that have an influence on the competitive supply of products and services.

The European Telecommunications Standards Institute should take into account the guidelines on standards defined by the Commission of the European Communities.

SUBJECT: ANSWER TO VICE-PRESIDENT K.H.NARJES  
ON HIS QUESTIONS CONCERNING STANDARDIZATION

1. Introduction

Standardization policy questions were presented during the Round Table meeting of 22nd of June in EEC document 5684 of June 4, 1987, and summarized in President Karl-Heinz Narjes' telex following this meeting. The question concerned the commitment of greater industrial resources in the acceptance procedures, the strengthening of standardization aspects in the major community R and D programmes and the use of standards in application as well as operating systems.

Answers to these questions will be related to OSI standards.

As indicated in the referenced paper, the support of industry to the EEC policy is without reservation.

2. Commitment of greater industrial resources

2.1. Preamble

There are currently three principle regional initiatives dealing with Functional standards/profiles. These are centred in Europe, Japan and the USA. A mechanism for harmonizing the activities of these groupings leading to ISO endorsed International Standardized Profiles (ISP), is being established.

The principle European initiative was established by SPAG (an activity originated by the Twelve Round Table member companies) which with the active support and participation of the Commission, lead to the procedure to establish EN/ENVs (European Norms) under the aegis of CEN/CENELEC and CEPT.

The broad spectrum of European interests now involved in Functional standardization (and hence the possibility of overlaps and incompatibilities) has lead, again under SPAG initiative, to propose the establishment of EWOS (European Workshop for Open Systems).

2.2. European Workshop for Open Systems (EWOS)

The creation of EWOS will federate working groups of SPAG, EMUG (European MAP Users Group = European grouping of manufacturing users, corresponding to MAP-US), OSITOP (European office automation users group = European grouping corresponding to TOP-US), RARE/COSINE (scientific users), CEN/CENELEC, and, possibly, ECMA (European Computer Manufacturers Association).

EWOS activities will be coordinated with CEPT by a coordination committee.

EWOS aims to be efficient in accelerating the functional standardization process particularly for priority items, within the goal of European and worldwide harmonization.

It will separate,

the (functional) standards making process

from,

the approval process of the national standardization bodies.

The combination of these two aspects has, on occasions, caused delays in the present realization of the work programme of CEN/CENELEC.

An improvement in the time needed to establish standards is vital.

Nevertheless, EWOS is also designed to optimize the use of the scarce number of experts in avoiding their dispersal in overlapping working groups working on the same topic.

EWOS will also benefit from users and vendors experts, not involved presently in the CEN/CENELEC activities.

EWOS is seen as the principle mechanism that will ensure the best deployment, and hence the adequacy, of resources to achieve the Community goal of establishing (Functional) standards in an efficient, representative and timely fashion.

### 2.3 National Bureau of Standards (NBS)

In the US, the NBS Implementors' Agreements reached through the NBS workshops are recognized as an acceptable base from which procurement standards can be derived. MAP/TOP, COS Architecture and US GOSIP are all based on the NBS agreements. The ability to bring in a Federal Information Procurement Standard for all US agencies through US GOSIP results from this circumstance. The establishment of the European market for OSI products is critically dependent on sufficient orders from big user communities - notably national government agencies - which specify consistent profile requirements. The existence of a generally accepted functional standards base, such as afforded by NBS in the USA, is vital for this process.

The United Kingdom GOSIP strategy is an example of such an initiative which needs to find parallels in other Community member states.

### 2.4 European Norms (EN/ENV)

In Europe, ENs and ENVs represent a potential equivalent, but the scope, representation and programme of work of this activity appears limited.

The current ENV formation process must however be continued in parallel both to allow EWOS to take over work in manageable steps and also to cover any areas, where EWOS is unnecessary or where other equivalent mechanisms exist.

## 2.5. Overview

In conclusion, we believe that the experts used in the standardization process should be:

- of senior level (the main progress to date has been achieved by the top level network architects of European industry);
- directly involved in development activities.

(Standardization experts unconnected with industrial constraints can sometimes create difficulties.)

SPAG activities, within SPAG, in CEN/CENELEC, in NBS workshop, are presently covered by experts in order of

- 40 , in SPAG;
- 16 , in CEN/CENELEC;
- 4 , in NBS workshop.

These resources now appear appropriate because the creation of EWOS will permit a better use of all those experts. Additionally, the complementary resources from users (OSITOP, EMUG, RARE/COSINE), which do not participate presently in CEN/CENELEC standardization activities, will be added to the EWOS resources.

The key problem for Europe is therefore the creation of EWOS. A financial support from the Commission to EWOS will help this synergy of all European forces in this field of information technology standardization.

## 3. Strengthening of standardization aspects in the major R/D programmes

### 3.1. ESPRIT 1

ESPRIT 1 has contributed significantly to the development of standards in many domains (VLSI/CAD, software engineering, logic programming, etc.).

In the field of OSI, the main successful projects are well known. Many SPAG members participate in these projects:

- |       |   |
|-------|---|
| SEDOS | For the production of Estelle and LOTOS tools for OSI software products design, in liaison with NBS (BULL, ICL and universities);   |
| ROSE  | which permitted prototyping and direct experimentation of transport, session, FTAM, messaging, and which is now experimenting network management (BULL, GEC, ICL, OLIVETTI, SIEMENS); |

- THORN for directories (BULL,GEC,ICL,OLIVETTI,SIEMENS);
- PODA for office document architecture with Demo in CEBIT 1987 (BULL,ICL,CGE,SIEMENS,OLIVETTI);
- CNMA 1 for MAP 2.1 (lower layers) and MAP 3.0 MMS Demo in Hannover 1987 with worldwide impact (BULL,CGE,SIEMENS,OLIVETTI, NIXDORF, major users - British Aerospace, BMW, Aeritalia, Peugeot -, and Fraunhofer Institut);
- CNMA 3 for European participation in testing of MAP profiles for the end of June 88 (BULL,CGE,ICL,SIEMENS,OLIVETTI, NIXDORF).

These projects with measurable fall-outs, have taught industry to work together and to contribute efficiently and fast, to the international standardization and testing scene. They have also contributed to the acceleration of implementation of OSI in products.

### 3.2 ESPRIT 2

Some of the existing projects will hopefully be continued in ESPRIT 2 (SEDOS,ROSE,PODA) and permit progress in the future concepts for OSI.

Other fundamentally new undertakings will take place, mainly "OSITIP" (TIP A), which is in its definition phase, and can be a major contribution to the promotion of OSI implementation (see 5.2.1.); same can be said of the continuation of CNMA 1 (CNMA 2, 3, 4).

### 3.3 Future Standardization aspects

The key question now is indeed the strengthening of standardization aspects in the major community programmes.

As stated in paragraph 4, page 8 of the EEC document 5684 of June 4, it is necessary to envisage now:

- a viable Information Exchange System for the European research community based on OSI;
- the use of OSI standards in the main EUREKA and EEC projects (ESPRIT, RACE, etc.), when applicable.

It is understood that the EEC is ready to support such undertakings. The European industry is ready to cooperate in the proposals.

#### 4. Use of standards in operating systems

A number of European industrial companies (BULL, ICL, SIEMENS, OLIVETTI, NIXDORF, PHILIPS) have created the X/OPEN group to define a programming environment around UNIX.

This grouping has a worldwide impact (because of its US membership: AT&T, UNISYS, DEC, Hewlett-Packard), as well as its EFTA member (ERICSSON).

The activity has been introduced to ISO for international standardization. X/OPEN is now studying the recommendations concerning OSI profiles, and their programming interfaces.

#### 5. OTHER CONSIDERATIONS - the implementation of profiles in products

##### 5.1 Preamble

In addition to Vice-President Narjes' questions, another fundamental issue to be addressed is the implementation of profiles in products.

Four areas have to be addressed:

- the implementation of OSI in vendors products (market push);
- the development of the market (market pull);
- single validation and certification testing environment (market unification);
- acceleration of work on base standards in key areas (further OSI development).

Market take-off and product implementation are interdependent, and the problem of "deadly embrace" in which suppliers hold back on volume product production until there is a market demand and a return on investment, and users hold back from providing the market until there is sufficient evidence of a selection of products to choose from, is all too familiar in this area.

##### 5.2 Implementation of OSI in vendor products

The principle issue is the implementation of EN/ENVs in products.

BULL, ICL, SIEMENS, OLIVETTI, NIXDORF, PHILIPS - together with US and Japanese participants - have already demonstrated in CEBIT 1987 the interworking of products implementing the CEN/CENELEC profile for messaging.

Most of these European companies have in their catalogues products implementing the lower layers of the OSI Reference model up to the Transport Service. Some include the Session layer.

The real marketing period for products implementing OSI (European and US) appears to be 1988, which will coincide both with initial applications of the EEC Directive of December 22nd, 1986, for application of EN/ENVs in public procurements.

### 5.3 Development of the market

Large projects, like the UK GOVNET, and more projects under the INSIS umbrella are required. They should be consistent with the foregoing standards strategy.

Another aspect is the creation of evolutionary integrator projects to move forward the progression to OSI profiles in parallel with their evolution. Here we can contrast the position in Europe with that in Japan. In Japan, the project INTAP is being used as a major integrator for a phased implementation of OSI and for understanding the problems of managing large network/distributed databases. In Europe good feeder projects exist, e.g. OSI prototyping in ROSE and the PODA project, but we lack sufficient integrator projects.

A major property of integrator projects is the presence of users and of a real application. In the particular area of MAP, the CNMA 1 project is an illustration in this respect; more such projects are required. In particular, the ESPRIT 2 project TIP"A", as promised as an integrator for the Networked Office - and on a scale like INTAP - should enable an understanding to be built up of the problems of managing European wide networks.

A powerful European policy in the field of public procurements is also needed (i.e. a European GOSIP), similar to the certain initiatives referred to earlier.

The role of users associations, such as EMUG, OSITOP, RARE/COSINE, will be fundamental.

The deregulation policy, as described in the Green Paper, shall take care that VAN rules shall in no way jeopardize the present European OSI policy. Moreover, the creation of new VANs under the EEC umbrella for specific community needs shall be good opportunities for OSI promotion.

### 5.4 Harmonized Conformance Tests

Harmonizing of conformance tests is required. The objective must be to achieve a single suite for a given purpose. (Note that this does not require a single test engine. It does require a single set of test scenarios).

SPAG has been successful in establishing close relations between Europe and US in that field through COS and MAP/TOP.

The recent constructive discussion between SPAG Services, MAP/TOP, the CNMA 3 project and COS illustrates the type of cooperation that must be fostered.

### 5.5 Acceleration of base standards

Aside from the acceleration of the production of functional standards from existing base standards, a major problem exists in that we are missing certain stable base standards. This is particularly serious in the Network Management and Security areas of OSI, and in matters relating to ISDN as an underlying sub-network. COS has in fact asked for a special exercise on Network Management: SPAG and POSI have been less sure of the value of this step, without some preparation of the ground. ECMA is an effective organisation. Acceleration of the work in ECMA task groups together with the inclusion of outside experts to these should be considered to address the Management and Security aspects.

It is anticipated that the proposed ETSI will address the ISDN issues. Otherwise CEPT must be directed to finalize these standards.

### 6. Coordination with activities in the field of Telecommunications

In the growing intersection of telecommunications and data processing there is a "grey area" where the responsibility for the standards making process is not clear.

This is particularly so, where (mandatory) procurement standards are being established which may effect the design of connected end-systems. The issues embrace both connection and interworking considerations.

Given the establishment of EWOS and of ETSI (European Telecommunications Standards Institute) the scope of both groups should be clearly established. Subsequent harmonization of their activities should be capable of being activated by normal liaison mechanisms or other coordination activities.



REÇU le  
11 NOV. 1987

Réponse 21062

Aigumeen Secretariaat - Secretariat Général - Generalsecretariaat - Secretariat General - Secretaría General

Réf. : HG/db/00080501/489

Monsieur S. NEDZYNSKI  
Secrétaire Général IPTT  
38, avenue du Lignon  
CH-1219 LE LIGNON/GENEVE  
Suisse

Bruxelles, le 5 novembre 1987

Cher Monsieur Nedzynski,

Conformément à l'accord fait en juillet 1987, l'EUROFEDOP vous fait parvenir par la présente les remarques et les considérations par rapport au "Livre vert" qui nous a été envoyé.

Au cours de la réunion du Conseil Professionnel PTT, les pays affiliés se sont penchés sur le contenu du "Livre vert".

L'EUROFEDOP reconnaît la grande importance du "Livre vert" et a adopté une attitude élémentaire positive par rapport à son contenu. Le Conseil professionnel s'est limité à une discussion élaborée sur les positions comme elles sont incluses dans l'encadré 2 du "Livre vert".

En général :

Le Conseil professionnel ne peut pas nier avoir l'impression que les positions proposées sont surtout rédigées en faveur de la vie d'entreprise privée. Nous estimons qu'elles devraient beaucoup plus accentuer l'importance essentielle d'une meilleure infrastructure pour la vie d'entreprise. En conséquence des nouvelles technologies, celles-ci peuvent être utilisées pour améliorer plus profondément les infrastructures. A ce propos, la coordination entre les pays membres est essentielle. L'EUROFEDOP estime que les pays membres ne devraient pas se concurrencer mais se soutenir réciproquement. Ce n'est que dans cette condition que les développements dynamiques dans le domaine technologique peuvent être entièrement mis à profit.

A. L'EUROFEDOP souscrit la première partie de ce point, à l'exception de la libéralisation de certaines parties des infrastructures du réseau. L'EUROFEDOP estime que cela provoquera une désintégration continue des droits exclusifs et spéciaux des administrations des Télécommunications.

En ce qui concerne la seconde partie, l'EUROFEDOP fait remarquer que lorsque les satellites sont introduits pour le réseau public, il devrait

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être déterminé que l'administration est exclusivement réservée aux administrations des Télécommunications. En d'autres mots, la liaison par satellites est une autre forme d'infrastructure, pour laquelle les mêmes règles c.q. les mêmes droits doivent être appliqués que pour l'infrastructure actuelle existante. Si cela ne se réalise pas, l'infrastructure actuelle sera soumise à beaucoup de pression.

B. Selon l'EUROFEDOP, il semble opportun de demander des explications plus précises à la commission. La téléphonie phonique constitue toujours la base d'infrastructure à court terme. Dès que la téléphonie digitale sera tout à fait introduite, il sera impossible de faire une distinction.

Etant donné les développements techniques, la notion de service de base doit être différemment définie. Lors de la digitalisation de la transmission d'informations, il sera pratiquement impossible de maintenir les limites adoptées. Les développements techniques doivent permettre d'offrir des services intégrés.

D'après l'opinion de l'EUROFEDOP, l'assurance de gains financiers suffisants doit être garanti en vue de l'exécution continue des tâches non rentables assignés (tâche sociale).

C. L'EUROFEDOP n'a pas de commentaire à ce propos.

D. L'EUROFEDOP veut insister pour que des normes européennes soient rédigées qui sont valables pour toutes les instances. Ainsi, nous disposons d'un bon fondement qui nous mettra en mesure d'entrer en concurrence avec d'autres nations en dehors de l'Europe.

E. Une des revendications générales doit être que les infrastructures ne doivent pas être mises à disposition, si celles-ci constituent une concurrence déloyale pour l'administration des T. avec les réseaux privés. (Il faut penser aux lignes louées et sous-louées).

F. L'EUROFEDOP souscrit ce point de vue. Cependant, nous pouvons faire une remarque en marge. A long terme, il ne sera plus possible de parler du premier appareil téléphonique conventionnel, à cause des développements technologiques. Peut-être, il vaudrait mieux introduire une sécurité électronique entre les appareils utilisés par le consommateur et les infrastructures, en vue de protéger les infrastructures. (Aux Pays-Bas, une telle chose existe avec l'introduction d'un fusible principal dans le circuit électrique des habitations). Par rapport à ROES, la réglementation doit contenir une détermination de la notion du terminal. Il faut prévenir l'emploi impropre des infrastructures publiques par la connexion éventuelle des terminaux.

G. Cette position semble raisonnable en soi. Cependant, une réalisation très rigoureuse de la séparation peut causer de grands problèmes, parce que des personnes non concernées pourraient prendre des décisions qui causent des dommages aux infrastructures et par conséquent, qui peuvent nuire sérieusement à la tâche principale des P.T.T.

H. L'EUROFEDOP se demande comment le respect de cette position peut être contrôlé. Cela s'avérera impossible et incorrect, parce que des prévisions parallèles se créent pour un certain nombre d'autres services (Télévision par câbles, etc...) avec un réseau de large bande et la soi-disant liaison phonique. L'inverse existe aussi. Par l'emploi du

câble à fibre de verre, une coupure est impossible. Le maintien de la position H signifiera qu'à long terme les administrations des T. doivent affronter une limitation, qui mettra en danger la continuité.

I. Par rapport à ce point, les mêmes remarques peuvent être avancées que par rapport au point H.

J. Aucune remarque.

En outre, l'EUROFEDOP estime qu'il est d'une importance essentielle que les administrations PTT consacrent une attention particulière aux problèmes suivants dans les années à venir :

- des programmes de formation et de recyclage;
- une politique sociale adaptée et justifiée;
- l'adaptation des conditions de travail et des autres réglementations
- impossibilité de licenciement forcé à cause des développements actuels au sein des administrations PTT. Les licenciements forcés ne peuvent pas avoir lieu.

Enfin, l'EUROFEDOP a plaidé parmi ses membres pour ouvrir la discussion du "Livre vert" dans les délibérations avec les PTT c.q. les autorités publiques. Alors, une position définitive peut être établie au niveau européen et les avis des gouvernements peuvent être dûment influencés. Une première contribution à ce sujet est apportée par la résolution ci-jointe comme elle a été adoptée au cours de la réunion de l'EUROFEDOP du 24 septembre 1987.

Nous assumons que vous prendrez soin d'envoyer un assemblage des revendications à la Commission européenne. La délégation de l'EUROFEDOP espère pouvoir vous rencontrer le 2 décembre prochain à Berlin.

Nous espérons avoir ainsi rempli les conventions prises.

Avec mes sentiments distingués.

Pour le Président du Conseil Professionnel PTT  
Heldert GROOTENDORST

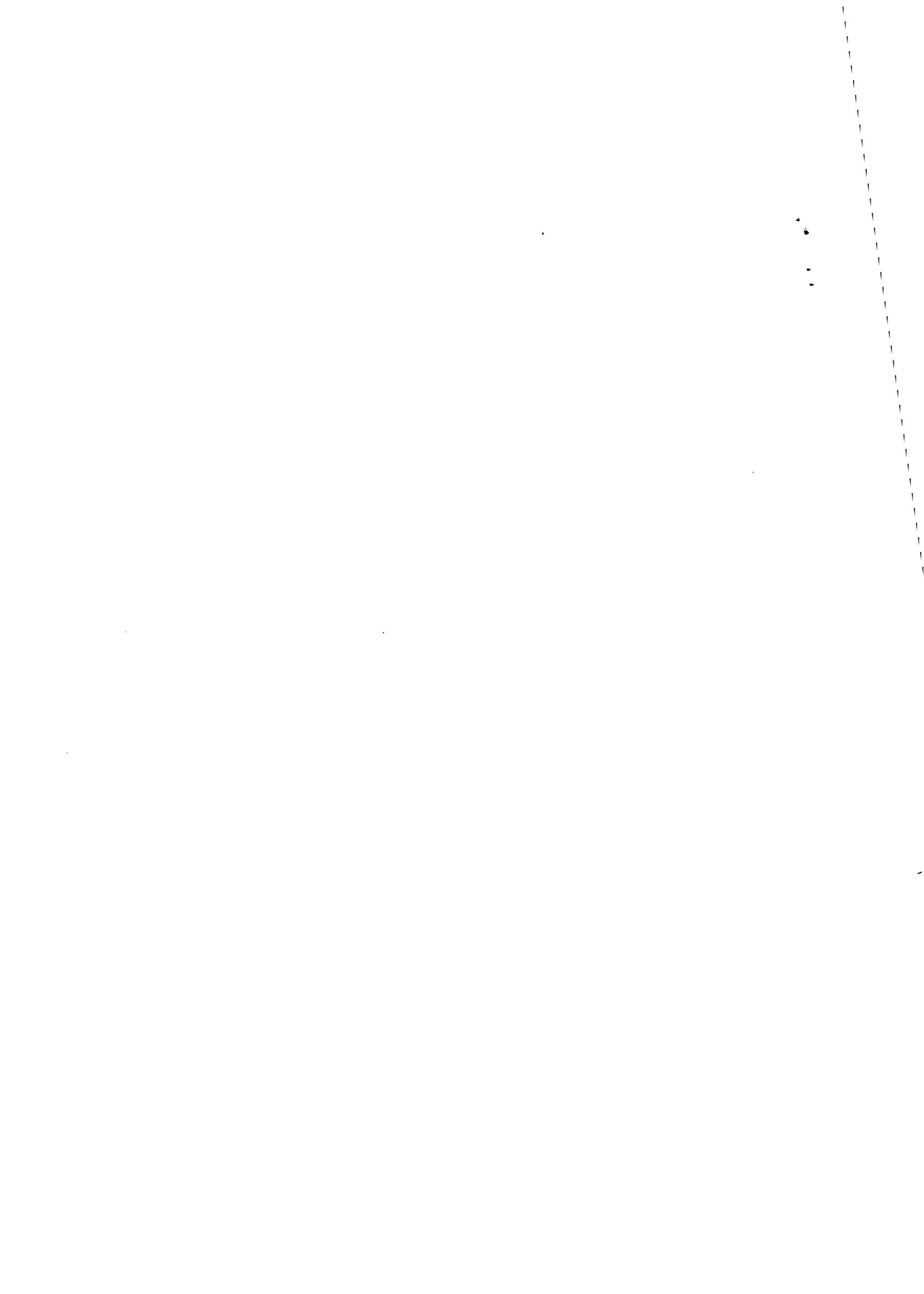


Jos DE CEULAER  
Secrétaire général

Annexe : 1

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Coll. : 





## COMMUNIQUE DE PRESSE

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A l'occasion de : Le Conseil Professionnel P.T.T. de l'EUROFEDOP, réuni à Bruxelles

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### EUROFEDOP-P.T.T. ET LE LIVRE VERT

Le Conseil Professionnel P.T.T. de l'EUROFEDOP, réuni à Bruxelles, a procédé à un premier échange de vues concernant le projet de "LIVRE VERT" sur le développement des télécommunications en Europe.

Le Conseil salue l'objectif visé par la Commission des Communautés Européennes, qui est de créer un réseau européen de télécommunication techniquement avancé et compétitif, en particulier, d'installer un réseau numérique européen à la fois ultra-moderne et compatible.

Dans l'élaboration de cette future politique européenne des télécommunications, l'EUROFEDOP, par son Conseil Professionnel P.T.T. demande notamment :

- l'offre et l'exploitation de l'infrastructure du réseau général doivent rester de la compétence exclusive des administrations des postes et télécommunications;
- la fourniture du premier combiné téléphonique doit aussi rester un droit exclusif des administrations;
- l'ouverture à la concurrence du marché des terminaux doit impliquer le droit pour les administrations de participer à ce marché;
- afin que les administrations des télécommunications puissent continuer de remplir leur mission de service public, elles doivent non seulement conserver l'exploitation du service téléphonique de base mais avoir la possibilité de fournir toutes les prestations du secteur ouvert à la concurrence.

Par ces revendications, le Conseil Professionnel P.T.T. veut tenir compte des intérêts du grand public et surtout sauvegarder le statut social des personnels.

Les organisations affiliées sont invitées à discuter des orientations contenues dans le projet de 'Livre Vert' avec les autorités compétentes de leurs pays respectifs.

L'EUROFEDOP est attentive à la réalisation de l'unité européenne et, par conséquent, accueille favorablement toutes les initiatives allant dans ce sens.

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Décembre 1987.

LIVRE VERT SUR LE DEVELOPPEMENT DU MARCHÉ COMMUN  
DES SERVICES ET EQUIPEMENTS DES TELECOMMUNICATIONS

- A V I S -

Sur base des premières constatations de ses experts, EUROCHAMBRES souligne l'importance du Livre Vert dont le principal mérite est d'avoir exposé en détail et en toute objectivité la nécessité d'une politique communautaire en matière de télécommunications.

A cet effet, de nos jours, aucun Etat membre n'est en mesure de réorganiser son système de télécommunications sans tenir compte des évolutions internationales. D'autre part, les services de télécommunications sont devenus des marchandises commerciales soumises aux dispositions du Traité de Rome, en particulier aux règles de concurrence et de prestations de services. Cette évolution a rendu d'autant plus nécessaire l'établissement d'une politique communautaire.

- 1.- EUROCHAMBRES et ses associations membres se doivent d'exprimer d'une manière complète et pragmatique non seulement les intérêts de l'économie en général, mais aussi des clients-usagers, moyens et petits, producteurs et distributeurs de biens et services. C'est pourquoi elles s'intéressent aux problèmes de politique et d'organisation des services et des équipements de télécommunications.
  
- 2.- Face à la révolution télématique, née de l'intégration des télécommunications, de l'audio-visuel, de l'informatique, un processus de coordination unitaire et opérationnel des stratégies politiques et des décisions législatives des 12 Etats membres en matière de télécommunications est un objectif prioritaire urgent. Cette coordination qui concerne la libéralisation, les tâches et les modalités d'action des administrations dans le secteur des télécommunications doit être effectivement conduites de façon cohérente avec l'Acte Unique et influencer directement le progrès des entreprises européennes en termes de compétitivité. D'autre part, le Marché Commun des services de télécommunications organisé sur les principes de la libre prestation de services et de règles de concurrence doit être considéré comme un élément constitutif du Marché Intérieur de tous les secteurs économiques mais surtout du secteur des services.

Comme chacun sait, malheureusement, les grandes potentialités d'intégration des télécommunications, de l'audio-visuel et de l'informatique dans certains Etats membres souffrent encore des limitations imposées par des systèmes de réglementations différentes : les télécommunications, traditionnellement, sont dominées par des monopoles d'Etat, l'audio-visuel est soumis à une gestion mixte publique/privée, et l'informatique au contraire s'est développée dans un environnement ouvert à la concurrence, certes imparfaite où dominent cependant les puissantes sociétés multinationales.

Tous les services avancés qui caractérisent la société de l'information sont des services qui exigent un niveau de recherche et de développement très poussé qui doivent être rapidement commercialisés vu l'accélération des progrès dans le respect des mécanismes du marché pour se développer.

Le Livre Vert propose comme objectifs d'une politique communautaire :

- d'une part d'entreprendre une transition progressive mais dynamique visant un marché ouvert à une concurrence loyale. Une telle ouverture doit permettre, en premier lieu, aux industriels européens de disposer d'une base continentale à partir de laquelle ils pourront affronter à pieds d'égalité leurs concurrents américains et japonais.
- d'autre part, de permettre aux utilisateurs de développer ou d'utiliser au moindre coût les nouveaux et nombreux services et d'une qualité suivie, ce qui implique notamment le mariage des technologies de l'informatique et des télécommunications.

De l'avis des experts d'EUROCHAMBRES les importantes affirmations suivantes du Livre Vert doivent être soutenues :

- "l'intégration européenne ne pourra progresser que dans la mesure où elle disposera de réseaux, de systèmes et de services de télécommunications et d'information performants accessibles aux meilleur coût.
  - les systèmes et les services de télécommunications de l'information contribueront de manière décisive à la mise en place du Marché Unique, pour la compétitivité de l'industrie et des services et pour la cohésion interne et externe que la Communauté s'est fixée comme objectif".
- 3.- Au-delà de l'engagement politique général de créer le Marché Unique pour 1992, EUROCHAMBRES prend acte avec satisfaction des motivations qui, en détail et en toute objectivité dans le Livre Vert justifient l'urgence d'une révision de fond des politiques et des structures en matière de télécommunications :

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- a) la satisfaction des besoins de communication,
- b) la multiplication de nouvelles formes d'accès aux sources d'information,
- c) la rapidité des diversifications technologiques,
- d) l'importance majeure des effets d'échelle : le Livre Vert présente des données quantitatives d'un grand intérêt dans le cadre du marché et des investissements actuels et ceux prévus jusqu'à l'an 2000,
- e) l'impossibilité de réorganiser les services de télécommunications dans une vision autarcique des différents Etats.

4.- EUROCHAMBRES ne peut qu'approuver la Commission Européenne, quant à la méthode, lorsque pour entreprendre une politique commune des télécommunications, elle propose :

- de faire entrer activement dans le processus de décision des démarches de concertation avec les partenaires économiques et sociaux directement intéressés : usagers, industriels, producteurs d'équipements, personnel des administrations des télécommunications.
- de reconnaître avec clarté la diversité des situations de départ dans les 12 Etats membres. Le monopole des télécommunications a été justifié dans le passé par des notions de politique nationale et de services publics. D'après les experts d'EUROCHAMBRES une analyse au fond de pro ou contre une situation de monopole ou de concurrence est nécessaire en respectant les évolutions techniques ou internationales surtout pour les réseaux et services de téléphonie. La dérégulation pose donc des questions difficiles et délicates.
- de proposer aux Etats membres un processus dynamique à caractère itératif, l'ouverture des marchés de services et de télécommunications à la concurrence. La technologie a ses applications rapides, mais là encore soumise à beaucoup d'évolutions nouvelles. Ce processus doit aussi inclure une possibilité d'une évolution plus avancée pour quelques Etats membres.

5.- L'orientation de base de l'action communautaire semble toutefois possible et réaliste :

- sauvegarder le rôle des administrations de télécommunications dans la dérégulation de l'offre des infrastructures pour le transport des informations, mais en même temps réaliser l'inter-action des réseaux des terminaux et des services en accélérant activement la politique de normalisation mise en oeuvre depuis 1984 au niveau européen. Cet effort de normalisation devrait être conduit en rapprochant encore toutes les parties intéressées. Dans ce sens, l'action d'un institut européen de standardisation doit être soutenu.

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- placer les services déjà existants ou à développer dans un cadre de concurrence : en permettant d'une part aux administrations à condition qu'elles n'abusent pas de leur position dominante d'intervenir parmi les candidats à la fourniture de services et, d'autre part, en assurant des nouvelles possibilités pour les prestataires de services. Dans ces matières, l'ouverture au marché concurrentiel et conforme aux intérêts et aux besoins des clients sous réserve que soit respecté les principes de vérité des prix, transparence des coûts et concurrence loyale. Par ailleurs, il convient de tenir compte des enseignements, des initiatives prises par certains Etats membres, par exemple comme la France en matière de services à valeur ajoutée.

Les orientations de base de l'action communautaire indiquée par la Commission Européenne devraient être appuyées quant aux sujets suivants:

- séparation complète des fonctions exercées par les organismes publics en matière de réglementation d'une part, et d'exploitation d'autre part ;
  - investissements dans les nouveaux services également dans les régions périphériques afin d'éviter de nouveaux et plus graves déséquilibres au niveau territorial et pour développer au contraire la cohésion des pays de la Communauté ;
  - application des dispositions du Traité de Rome en matière de concurrence et de libre prestation de services :
    - a) ouverture progressive et complète du marché à la concurrence en matière de terminaux ;
    - b) ouverture progressive pour les prestations de services ;
    - c) liberté d'accès à partir de tout point de connexion pour les réseaux ;
  - préparation et gestion des positions communes pour les négociations au sein des organisations qui s'intéressent aux décisions internationales ;
  - concertation étroite avec les partenaires sociaux pour faciliter les transitions et exploiter au mieux l'évolution des réseaux et des services en vue de susciter la création d'emplois nouveaux.
- 6.- Lors de la 62<sup>e</sup> Assemblée Plénière d'EUROCHAMBRES tenue à La Haye, le septembre 1987 et consacrée au thème "Les transports : sur dynamique du Marché Unique Européen", la résolution finale portait les transports comme outil de productivité pour les entreprises et a fortement exigé "une stimulation au plan communautaire du développ

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et de l'application de l'informatique et de la télématique pour l'indispensable amélioration de la productivité des entreprises". Il est donc nécessaire, en particulier, d'arriver à une normalisation européenne pour les échanges automatiques de données liées aux transports.

7.- En conclusion, le but d'une action communautaire doit bien être de fournir aux entreprises européennes les meilleurs services, aux meilleurs prix et qualité. Mais, aussi pour les usagers-clients de garantir :

- la liberté de choix
- la qualité de service
- l'égalité de traitement

sur l'ensemble du territoire, en terme de desserte sur un certain nombre de produits de base. Ainsi, la concurrence jouera-t-elle mieux et en tout lieu.

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23.9.1987  
~~24.9.87~~

EUSIDIC

Response to the Commission of the European Communities on the  
Commission's Green Paper

THE DEVELOPMENT OF THE COMMON MARKET FOR TELECOMMUNICATION  
SERVICES AND EQUIPMENT

September 1987

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## EUSIDIC

EUSIDIC is the European Association of Information Services. The Association was started in 1970 and currently has some 180 corporate members (current list attached). The Association is active in the field of the international electronic information industry and its members comprise three major categories:

- Major users of electronic information services
- Major providers of electronic information services (hosts)
- Major producers of electronic information services (database producers).

Members of the Association have to be corporations with a physical presence in Europe; this currently accounts for some 140 of the 180 members. Other organisations not present in Europe can join as non-voting Associate Members, but are not eligible for posts as Members of Council or as Officers of the Association.

The fundamental aim of the Association is to aid in the creation of a dynamic and harmonious European marketplace by bringing together users, hosts and information providers. The Association has an active Telecommunications Chapter, is a founder member of INTUG, creates Guidelines and Codes of Conduct by consensus within the industry and has a prestigious Annual Conference and annual Technical Meeting where it examines new movements and new technology on behalf of its members.

Each year, EUSIDIC conducts a survey of European public data networks on behalf of its members (copy attached); the Association's interest in telecommunications is long-standing, since telecommunications forms the essential link between its members.

The enclosed comments on the Commission's Green Paper were drawn up by EUSIDIC's Telecommunications Chapter on behalf of the Association.

## I. The Commission's strength

The Commission draws political strength for the regulatory changes proposed in the Green Paper particularly by linking them with the Internal Market and the endorsement of the Commission's White Paper on Completing the Internal Market - agreed by the Heads of State at the Milan summit in June 1985.

" The regulatory aims in telecommunications must reinforce these overall policy goals. Re-regulation of the telecommunications sector must strongly promote the development of intra-Community trade in services and equipment and which enhance overall market efficiency. The White Paper draws specific attention to the importance of the rapid development on a European scale of certain value-added services, such as electronic banking and videotex --".

It is significant to note that the Commission not only argues a logical case in the Green Paper for concerning itself with telecommunication regulation but has also armed itself with some political weapons.

On top of this the Commission flexes its unexercised Treaty muscles and points to its own success in developing legal instruments when necessary.

## II. The European Dimension

Much of what the Commission is seeking to achieve is evident from the Green Paper. It would ideally like to see a re-structuring of European telecommunications through coordinated changes in the regulatory environment. However its influence on the internal decisions of member states is severely limited - except where there is an impact at the Community level. It is on the intra-European national frontiers where the Commission's priorities lie and where its strength is. As the Green Paper states " -- In particular, national frontiers should not be allowed to hamper the development of a consistent communications system within the European Community" (Presentation Pl).

## III. The National Effects

The Commission appears surprisingly optimistic regarding the consensus which has been reached in Europe on regulatory directions. It does however, quite rightly, point to the fact that the European regulatory climate is changing and the Green Paper is timely in that it may influence, to some extent, the development of some national regulatory policies. However (and as usual) there will be wide national differences and as political realists the most that the Commission will expect is that there will be regulatory harmony at the European level. This raises the interesting question of who will keep everybody in tune.

#### IV. The Commission's future role

Just what role the Commission sees for itself in a harmoniously regulated Europe is not clear. As guardians of the Community's competition rules it may have an important part to play. Also the Commission has adopted an increasingly active role in telecommunications over recent years which is now apparently extending into the regulatory area. There are some worrying aspects to this and the prospect of a kind of supra-national FCC producing a European regulatory quagmire is one which few would welcome. On the other hand European coordination will be certainly be necessary.

#### V. The Aims of the Green Paper

The prime aim of the Green Paper itself is said to be to launch a debate amongst all the interested parties. EUSIDIC like other interested parties is joining in the debate.

#### VI. THE COMMISSION'S PROPOSED POSITIONS

##### Introduction

The Green Paper has a number of attractive features not least of which is the clarity and brevity with which the Commission's proposals for adoption at the Community level by the member states are presented. This makes life a little easier for everybody and for convenience the proposals are given below in full prior to adding comments.

It is difficult not to appear carping when attempting to analyse the Commission's proposals. This is because the good things in it tend to be obvious while the problem areas are less apparent and require more detailed treatment.

Lest it be thought otherwise it should be said at this point that the Green Paper is, in EUSIDIC's view, an admirable document. It must always be born in mind that the Commission is bound by political reality and that any proposals it makes must be, or at least appear to be, a reflection of the political will of the twelve member states. In these circumstances the Commission deserves the many congratulations which will no doubt come its way. We feel, however, that a valid general criticism could be that the Commission in this Green Paper appears to be too prone to find reasons to advocate the least possible disruption in its ideas as presented. EUSIDIC takes the view that the normal situation in industrial life is that there is competition and choice; it is monopoly and exclusions that need to be justified and defended, not changes that require exhaustive justification.

Some of the ambiguities which will be referred to may be due to some extent to the brevity of the proposals and the approach here will be to give the benefit of the doubt - while pointing to the potential problems which ambiguity could create.

## Preamble

The general objective of the positions set out is the development in the Community of a strong telecommunications infrastructure and of efficient service; providing the European user with a broad variety of telecommunications services on the most favourable terms, ensuring coherence of development between Member States, and creating an open competitive environment, taking full account of the dynamic technological developments under way.

## Comment

It is unfortunate that the Commission appears to get its priorities wrong in the very first sentence. The need to provide the European user with better and cheaper services should of course come first and the other objectives - including the need for a strong European infrastructure - should be secondary to this basic aim.

There are some signs in the Commission's proposals - particularly in its seemingly over-protective attitude to PTT Administrations - where the priorities appear to be a shade askew.

### A. Exclusive infrastructure provision by Administrations.

Acceptance of continued exclusive provisions or special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure. Where a Member State chooses a more liberal regime, either for the whole or parts of the network, the short and long term integrity of the general network infrastructure should be safeguarded.

Closely monitored competitive offering of two-way satellite communications systems will need further analysis. It should be allowed on a case-to-case basis, where this is necessary to develop European-wide services and where impact on the financial viability of the main provider(s) is not substantial.

Common understanding and definition regarding infrastructure provision should be worked out under E) below.

## Comment

The Commission argues a good case in the Green Paper for providing the Telecommunications Administrations with exclusive provision of the telecommunications infrastructure - at this time.

Certainly there seems no viable alternative as yet which is more likely to achieve the objectives set out.

It would seem that the Commission is proposing that Telecommunications Administrations would be given this exclusive right on a permanent basis. Such a proposal, though politically expedient, may not be as binding in nature as it appears. No action is proposed to give it any teeth and beyond a requirement to maintain network infrastructure integrity Member States can accept this proposal and yet make up their own mind.

Competition law as it relates to telecommunications remains largely untested and it could be that even the existing sole right of administrations to provide the so-called infrastructure could be seriously questioned. Should, as seems distinctly possible, the telecommunication networks be found to be a service within the meaning of the Community rules then competition in the network infrastructure area could become a reality - irrespective of the adoption of this proposal.

Until the legal situation has been clarified it would seem unwise to grant unconditional exclusive provision of the infrastructure to telecommunications administrations.

The CEC itself has recognised that in one area at least (two-way satellite systems) the question of competitive provision needs further analysis and should be allowed under certain circumstances. This is no doubt because of the relative ease of provision and the obvious scope for the rapid introduction of innovative and beneficial new services through competitive satellite offerings of this type. It is therefore prudent to leave the door open on this aspect of the infrastructure and the intention to do so is applauded. However the conditions associated with the proposals give rise to a number of questions.

For example:

- Who will be the judge as to whether a competitive offering is necessary to develop European-wide services?
- Who will determine whether the financial viability of the main provider is or is not substantial?
- What of the financial burden placed on European businesses if an otherwise beneficial services is judged to adversely effect the financial viability of the main provider?

Singling out two-way satellite services as a special case is also a curiously outdated and potentially dangerous approach. To protect the terrestrial infrastructure in the way proposed would provide no incentive to adopt newer technologies or to become more efficient.

There is no real evidence that the integrity of the network is threatened by competitive provision and the British experience suggests that there may be substantial benefits in introducing a form of competition in the basic network. While it is too early to say whether Europe as a whole would benefit from such

competition it would be folly to close the door on the possibility. If the Administrations were given, as the proposal suggests, continued (which might be construed to mean perpetual) exclusive provision or special rights regarding provision and operation of the network infrastructure then valuable future opportunities may be lost.

In the U.K. the invigorating effects on the efficiency of BT through competition from Mercury are evident. It is significant to note that competition with BT became a viable prospect through a combination of new technology allied with a railway system covering most of the country (enabling the laying of optical fibre cable without usual problems of obtaining wayleaves). Europe as a whole simply cannot afford to turn its back for ever on this kind of opportunity. The approach to the question of competition within the network infrastructure should be tempered by at least providing for a periodic review.

#### **B. Exclusive provision by Administrations of certain reserved services.**

Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision of a limited number of basic services, where exclusive provision is considered essential at this stage for safeguarding public service goals.

Exclusive provision must be narrowly construed and be subject to review within given time intervals, taking account of technological development and particularly the evolution towards a digital infrastructure. 'Reserved services' may not be defined so as to extend a Telecommunications Administration service monopoly in a way inconsistent with the Treaty. Currently, given general understanding in the Community, voice telephone service seems to be the only obvious candidate.

#### **Comment**

This proposal has understandably received wide acclaim amongst the user community.

If, as is suggested, the telecommunications Administrations were to have the exclusive right only to supply public speech services then this would be welcomed by the majority of users (see also c. Below). It is, however, assumed that the exclusive provision of voice telephone service would not be extended to private voice networks or to voice value-added services at this stage as this would be an unacceptable extension of the service monopolies.

### C. Free Competition For All Other Services

Free (unrestricted) provision of all other services ('competitive services', including in particular 'value-added services') within Member States and between Member States (in competition with the Telecommunications Administrations) for own use, shared use, or provision to third parties, subject to the conditions for use of the network infrastructure to be defined under E).

'Competitive services' would comprise all services except basic services explicitly reserved for the Telecommunications Administrations (see B).

#### Comment

Again this proposal which is closely allied with B. above has been widely welcomed by users. To open up the whole network to competition - including services such as telex and packet switching - is an appealing prospect.

The Commission might however be accused of pressing for something which is already a right. No new instruments are needed (or proposed) to establish this principle for services across European boundaries and all that seems necessary is the full application of the EEC Treaty to telecommunications. The Commission appears merely to be reflecting the inevitable outcome in the event that the competition rules were to be thoroughly tested.

The real benefit of this proposal in the Green Paper may be to provide a common understanding of the competition rules as they affect telecommunications. The proposed Community Directive on Open Network Provision (see E. below) could, in principle at least, also be very helpful.

The main problem is how to achieve a free competitive market while allowing telecommunications Administrations to compete.

One of the fears, which the Commission evidently recognises is that cross-subsidisation by Administrations could lead to abuse of their dominant positions and consequently deter or destroy competition in the 'unreserved' services area. However they stress that any abuse under the competition laws would be as a result of predatory pricing rather than cross-subsidisation.

The Commission refers to the need for strict continuous review of the activities of Administrations and others under the Community competition laws (see H and J below). Also to the extension of a Directive which requires transparency in the financial relations between governments and their public undertakings).

Exactly how this all could work - particularly in an ISDN environment - is not explained and this could prove to be extremely difficult in practice.

If competition for the non-reserved services is ever to become a reality then there must be equal opportunity for competitors regarding the provision of the infrastructure - which must itself be cost-based. A particularly close eye would have to be kept on services such as the Managed Data Network Services (MDNS) offered jointly by European telecommunications Administrations.

The opportunities for anti-competitive standards or network access conditions would also have to be removed (see D and E below).

#### D. Standards for Infrastructure and Services

Strict requirements regarding standards for the network infrastructure and services provided by the Telecommunications Administrations or service providers of comparable importance, in order to maintain or create Community-wide inter-operability. These requirements must build in particular on Directives 83/189/EEC and 86/361/EEC, Decision 87/95/EEC and Recommendation 86/659/EEC.

Member States and the Community should ensure and promote provision by the Telecommunications Administrations of efficient European-wide and worldwide communications, in particular regarding those services (be they reserved or competitive) recommended for Community-wide provision, such as according to Recommendation 86/659/EEC.

#### Comment

Community-wide operability is to be fervently desired and the Commission's recognition of the need for standards and its promotion of standards activity is in many respects admirable.

However standards activity can be and frequently is anti-competitive and the ICC has referred to the 'beggar-thy-neighbour' attitude which is now currently prevalent in this area. The future role of the European PTTs in the standards making process has therefore to be considered very carefully.

The secrecy of the CEPT is notorious and this extends even to its standards work. The whole telecommunications standards making process in Europe in fact needs to be more open and widened to allow comments from all the interested parties.

The Commission's own record in seeking and encouraging the participation of users in the standards making process has so far left much to be desired - notably in the ISDN area which is of key importance.

To prove anti-competitive behaviour under the competition rules could be difficult - particularly if the standards body concerned were to be government sponsored (some redress against standards groups which comprise commercial undertakings is possible). The

Commission has never dealt with such a case in the telecommunications field and it seems unlikely to do so in the future.

Some curious legal questions could therefore arise if standards setting (being considered a regulatory function) is separated from Administrations (see G. below). Whereas a CEPT standard might well be challenged under competition law (if a complainant had good grounds for showing its effects were anti-competitive) such redress would seem less certain if the standards body comprised government representatives rather than commercial undertakings. In these circumstances it becomes essential to prevent rather than attempt to cure anti-competitive standards behaviour in the telecommunications field and this can only be done by ensuring that the decision making process is as open and fair as it can possibly be made. As yet the Green Paper does not give sufficient grounds for confidence in this direction but there are one or two hopeful signs (see G. below)

#### E. Open Network Provision (ONP)

Clear definition by Community Directive of general requirements imposed by Telecommunications Administrations on providers of competitive services for use of the network, including definitions regarding network infrastructure provision.

This must include clear interconnect and access obligations by Telecommunications Administrations for trans-frontier service providers in order to prevent Treaty infringements.

Consensus must be achieved on standards, frequencies, and tariff principles, in order to agree on the general conditions imposed for service provision on the competitive sector. Details of this Directive on Open Network Provision (O N P) should be prepared in consultation with the Member States, the Telecommunications Administrations and the other parties concerned, in the framework of the Senior Officials Group on Telecommunications (SOG-T).

#### Comment

In principle this is an admirable notion and the only problem lies in the decision making process. If the Administrations are given the greatest influence in determining on what terms their competitors are allowed onto the network it will only be natural if their thoughts stray instead on to what could best keep them off. This may be understandable but it is not the stuff of which open competition is made.

The Commission foresees Directives on open network provision and, with the proviso mentioned earlier regarding the necessity not to dilute the competition laws, this seems a sound approach. The Directives would cover:

- technical interfaces
- tariff principles
- restrictions of use

The Commission also sees the Senior Officials Group - Telecommunications (SOG-T) providing the framework for developing these important Directives. Herein lies the same kind of problem with balance mentioned above for the greatest influence within the SOG-T is currently with the Administrations. This is not in any sense a criticism of the Commission for it is the Member States who determine the representation to the SOG-T. The establishment of a Senior Officials Group to provide assistance and advise is perfectly normal for a Directorate.

Should there be a clear separation of regulatory activities from Administrations (see G. below) then the composition of the SOG-T would hopefully be in fairer balance for this kind of task. However, as elsewhere in the Green Paper there is a question of timing and the separation of regulatory and operational functions will take several years to achieve in most member countries.

There is a danger that the formulation of the ONP Directives (enforceable on member states) will be greatly influenced by those who have the greatest commercial interest in the outcome.

#### F. Unrestricted Provision of Terminal Equipment

Free (unrestricted) provision of terminal equipment within Member States and between Member States (in competition with Telecommunications Administrations), subject to type approval as compatible with Treaty obligations and existing Directives. Provision of the first (conventional) telephone set could be excluded from unrestricted provision on a temporary basis.

Receive Only Earth Stations (ROES) for satellite down-links should be assimilated with terminal equipment and be subject to type approval only;

#### Comment

Since the resolution of the German modem case and other effective action by the Commission under Community competition rules this proposal might appear to be stating the obvious.

The proposal does however have the merit referred to earlier of getting a common understanding and therefore introducing change in a smoother and less combative way. A curiosity of the proposal is

the reference to Receive Only Earth Stations being subject to type approval for there seems to be no need for this unless they are connected to a network.

An important point to note here is that competition law cannot be compromised by any kind of temporary amnesty. Although the Member States may agree on some kind of phased relaxation of PTT restrictions any would-be competitive terminal supplier who chose not to wait would be in a very strong legal position.

#### G. Separation of Regulatory and Operational Functions

Separation of regulatory and operational activities of Telecommunications Administrations. Regulatory activities concern in particular licensing, control of type approval and interface specifications, allocation of frequencies, and general surveillance of network usage condition;

#### Comment

This is by far the most important of the Commission's proposals. Given the necessary powers and scope, adequate staffing and good co-ordination the national regulatory bodies could provide most of the answers to Europe's chronic regulatory problems.

The proposal as presented seems ambiguous for it suggests separation of the regulatory and operational functions only within a Telecommunications Administration. However it is apparently the Commission's intention that the functions should be absolutely separate. Furthermore the Commission is acutely aware that this is the most critical aspect of its proposals and feels that it already has the necessary consensus between the Member States. This again raises the question of the Commission's future role vis-a-vis telecommunications regulation. If, as seems probable now, the national regulatory bodies become a reality then the need for co-ordination at the European level - particularly with regard to competition rules - would appear to be critical. The Commission staff itself does not appear to have developed any firm views on this point (although there might well be some hopes) and seems open to ideas and suggestions.

There is some ambiguity in the Green Paper regarding what regulatory activities really comprise. No mention of tariff principles is made, for example, in this particular proposal and this is perhaps a deliberate omission. The reason for the ambiguity appears to be that the Commission has not yet agreed internally what should be included under the regulatory heading - this explains the inclusion of the words "-- concern in particular".

One very important activity for which the new national bodies should be given responsibility is in the international representation for their governments on telecommunications regulatory matters. It is also extremely important that these bodies should have the overall authority for tariffs.

#### H. Review of Administration Commercial Activities

Strict continuous review of operational (commercial) activities of Telecommunications Administrations according to Articles 85, 86 and 90, EEC Treaty. This applies in particular to practices of cross-subsidisation of activities in the competitive services sector and of activities in manufacturing;

Comment

The requirement for this is obvious. The only question is how it can be done and who will do it.

I. Review of Private Providers Activities

Strict continuous review of all private providers in the newly opened sectors according to Articles 85 and 86, in order to avoid the abuse of dominant positions;

Comment

This is allied with H. above and although it may appear to be cosmetic it is not. Although abuse by private providers seems less likely the Commission is obliged to be equally diligent in this respect as with Administrations.

J. Full Application of Community Commercial Policy

Full application of the Community's common policy to telecommunications. Notification by Telecommunications Administrations under Regulation 17/62 of all arrangements between them or with Third Countries which may affect competition within the Community. Provision of information to the extent required for the Community, in order to build up a consistent Community position for GATT negotiations and relations with Third Countries.

Comment

Many references have been made earlier to the application of the Community's rules to telecommunications and this proposal merely confirms the existing position. What is interesting is the emphasis placed on the regulation relating to notification in the context of the Administrations' foreign agreements.

The Commission has not been directly involved in the PC/WATTC process and appears to be unaware of the line adopted by the European PTTs - with the notable exception of the U.K. - during the preparatory work which is now ended.

The new draft Regulations to be considered for adoption at the WATTC meeting in November 1988 appear to conflict in a number of important respects with the Commission's proposals.



It is far from clear which would take legal precedence in the event that new telecommunication regulations (imposing Treaty obligations on all the ratifying countries) were, in the event, to conflict with community proposals or rules.

Nor is it clear whether and to what extent the new GATT round will be affected by the WATTC process.

The notification requirement by Administrations is too late to affect the outcome of WATTC. The process of notification referred to is not obligatory but is the means whereby exemptions may be sought to behaviour which might otherwise be judged to be anti-competitive.

#### VII. CONCLUSION

The Green Paper and the important proposals it contains represent a cross-roads for the European Community. Whether, in the event, the Member States take the right direction (or even the same direction) remains to be seen.

We agree with the Commission that telecommunications is an industry in rapid transition from being centralised on the concept of public or social services to being a vital and integral part of modern business. We miss in the Commission's Green Paper what we feel should be a necessary sense of urgency that should be injected into the question of re-regulation if Europe is not to find itself at an ever-increasing disadvantage with its main economic competitors, the United States and Japan. The gap is already wide, and the international telecommunication industry outside Europe is widening the gap every year.

We also regret that the public and social aspects of Telecommunication Administrations are not examined in a more fundamental way. We would welcome a move to examine these in more detail and, if necessary, ask more fundamental questions concerning how any national, social or public duties could be financed and safeguarded; we suspect that guaranteeing certain fundamental monopolies is not the only way in which national, social or public obligations can continue to be met.

The Commission draws strong links in its discussion document between telecommunications and the Community's policy for a common information market and it deserves the last word.

" Adequate telecommunication infrastructures and services are a condition sine-qua-non for the free expression and free flow of information in the Community in the future ---" (Green Paper P140)

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**COMITE NATIONAL FRANCAIS  
DE LA CHAMBRE DE COMMERCE INTERNATIONALE**

**Projet d'avis du Comité National Français de la Chambre de Commerce  
Internationale sur le livre vert de la C.E.E. (COM (87) 290 final)**

Le document publié le 30 Juin 1987 reçoit l'approbation du C.N.F.-C.C.I. pour ses objectifs de développement et de promotion du marché commun des biens et services de télécommunications dans un environnement concurrentiel libre et loyal.

Ce document lui semble d'autant plus intéressant que rien ne paraît devoir s'opposer à son application ni à ses projets vis-à-vis des pays européens extra communautaires, ce qui rejoint l'universalité du propos de la C.C.I. Plutôt qu'une exegese détaillée, le Comité préfère soumettre à la commission quelques commentaires sur les propositions regroupées à la figure 13 du document COM (87) 290 final.

Avant toute chose et pour éviter des ségrégations arbitraires entre exploitants privés et administrations, le Comité propose d'utiliser l'expression "entreprise de télécommunications", pour toute société autorisée par un Etat Membre à établir un réseau de télécommunications ouvert à des tiers, ou à ouvrir à des tiers un tel réseau qu'elle a établi.

Ainsi, *la proposition A* (exclusivité ou droits spéciaux) s'applique-t-elle à toute entreprise de télécommunications à laquelle un Etat Membre a accordé les droits et les obligations d'installation et de gestion d'un réseau général. Ces obligations comportent la couverture de la totalité du territoire, les liaisons internationales, les nécessités de la Défense et des Pouvoirs Publics, ainsi que celles des usagers domestiques et professionnels.

Elles impliquent d'assurer à tous l'accès au service de base, et de contribuer à la recherche, au développement et à la formation dans le domaine des télécommunications.

Il serait souhaitable de rappeler au titre de cette proposition que l'infrastructure doit tendre à l'amélioration et la facilitation des liens européens, internationaux, mondiaux.

*La proposition B* (service de base) est d'autant plus appréciée qu'elle envisage les prestations exclusives dans une optique étroite et restrictive.

*La proposition C* (services concurrentiels) gagnerait aux yeux du Comité à affirmer la nécessaire neutralité de l'exploitant vis-à-vis des utilisateurs, sans clauses restrictives d'activités ou d'associations, ni de complémentarités.

Le Comité soutient pleinement *la proposition D* (normes) et en particulier la création d'un Institut Européen des Normes, à la condition que celui-ci implique la participation des usagers et des constructeurs et soit un facteur d'accélération des travaux de normalisation.

*La proposition E* (exigences d'utilisation du réseau et O.N.P.) doit effectivement être poursuivie par une série de définitions claires des exigences et des obligations concernant la mise à disposition, l'interconnexion et les accès. Elle implique aussi aux yeux du Comité, que les utilisateurs professionnels soient partie prenante à la concertation envisagée pour l'offre d'un réseau ouvert (O.N.P.), car cette concertation doit avoir parmi ses objets, les principes de tarification de la prestation de services.

La proposition F (offre libre d'équipements terminaux) n'appelle pas de commentaires autres que ceux exprimés à l'occasion des propositions H et I.

La séparation des activités de réglementation et d'exploitation prévue à la proposition G devrait préciser que les principes tarifaires ressortent au domaine réglementaire.

Les propositions H et I (suivi des activités des entreprises de télécommunications) sont comprises par le Comité comme impliquant que le droit commun communautaire commercial s'applique à tous, qu'il s'agisse de fourniture, d'installation, de maintenance ou de service, et exclut les possibilités de subvention croisée ou péréquation ainsi que l'interdiction des abus de position dominante ou d'intégration verticale.

Ces points semblent aux yeux du Comité nécessiter une vigilance attentive en ce qui concerne plus particulièrement les péréquations entre services réservés et services concurrentiels, dans les domaines commerciaux, fiscaux, financiers ou tarifaires.

La proposition J (politique commerciale commune) attire de la part du Comité la remarque suivante :

L'ouverture du grand marché des télécommunications ne doit pas se faire au détriment des usagers ni des industriels européens qui exigent de leurs partenaires transparence et réciprocité. Cette réciprocité doit s'appliquer dans le cadre du G.A.T.T. sur une base d'examen produit par produit, marché par marché, pays par pays. Elle doit également jouer vis-à-vis des pays à structure fédérale ou confédérale dans lesquels une décision du pouvoir central peut être contrecarrée au niveau des autorités de l'état fédéré ou confédéré. De même, dans les relations extra européennes les règles évoquées dans la proposition J doivent être applicables aux entreprises de télécommunications sans tenir compte de leur nature : administration publique ou privée.

En conclusion, le Comité Français de la C.C.I. adresse à la Commission ses félicitations pour l'oeuvre déjà accomplie et soulignée dans le livre vert, réaffirme son accord global sur les propositions qu'il contient et l'assure de son soutien enthousiaste pour promouvoir un marché libéral et efficace des télécommunications.

Le 21/10/87

FTI/CD/D/87/27  
FTI/LV/87/01

POSIZIONE DELL'F.T.I. SUL "LIBRO VERDE" CEE

SULLO SVILUPPO DELLE TELECOMUNICAZIONI

Il presente documento esprime le valutazioni sul "Libro Verde" che le diverse componenti del Forum Telematico Italiano (F.T.I.) hanno concordato di proporre all'attenzione della Commissione CEE.

Commento generale

L'FTI apprezza particolarmente la chiarezza con la quale il Libro Verde affronta alcune delle questioni principali relative allo sviluppo delle telecomunicazioni in Europa. La chiarezza nella enunciazione delle posizioni e' infatti preferibile ad ogni tipo di equivocita'.

Vengono di seguito elencate le linee espresse nel Libro Verde che soddisfano particolarmente il requisito della chiarezza.

1.1) I servizi riservati, oggetto di monopolio, vengono indicati con precisione in una lista, da considerarsi modificabile nel tempo, e non tramite una definizione. Questo fatto permette di eliminare le zone grigie e di poter considerare consentito tutto cio' che non e' espressamente proibito.

1.2) E' indicata con chiarezza la separazione delle funzioni di regolamentazione e normativa del settore da quelle gestionali.

1.3) E' evidenziato il fatto che lo strumento tariffario e' capace di sostituirsi a quello normativo allo scopo di fissare condizioni generali per il settore delle telecomunicazioni. Lo strumento tariffario e' infatti tecnicamente in grado di dare valore effettivo a norme generali per il settore delle telecomunicazioni, onde evitare che le regole adottate rimangano lettera morta per l'impossibilita' pratica di controllarne l'applicazione. Lo strumento tariffario non deve tuttavia essere usato in modo tale da modificare o distorcere le dinamiche del libero mercato ed inoltre devono essere chiari i criteri con i quali le tariffe sono fissate.

1.4) E' evidenziata l'importanza attribuita alla promozione ed applicazione di standard comuni. A tale proposito l'istituzione di un organo normativo europeo, al quale concorrano CEPT, CEN e CENELEC, industrie e utenti, se opportunamente studiata, potrebbe essere particolarmente utile.

L'FTI ritiene che debba essere fatta invece maggiore chiarezza su alcuni punti del Libro Verde, allo scopo di rendere ancora piu' precisi gli scenari che esso propone. In particolare:

2.1) Deve essere chiaro che il monopolio dell'infrastruttura di rete riguarda la trasmissione trasparente di segnali, analogici o digitali (in quest'ultimo caso di stringhe di bit), non importa se originati dalla fonia, da dati o da immagini.

Le funzioni di commutazione svolte da apparati pubblici tra linee pubbliche all'interno della rete sono, ovviamente, di pertinenza del gestore dell'infrastruttura di rete, mentre deve essere permesso ad un apparato privato fare commutazione tra due porte di accesso all'infrastruttura di rete pubblica.

2.2) Mancano indicazioni sulla regolamentazione e sulla tariffazione della futura rete pubblica a larga banda.

2.3) Mancano indicazioni chiare sulla definizione del confine tra i domini di competenza del fornitore dell'infrastruttura di rete e quelli dei fornitori di servizi e degli utenti.

2.4) E' opportuno sostituire alla parola "terminale" l'espressione "sistema di utente", costituito dall'insieme dei dispositivi che l'utente usa ed ha in proprio possesso.

L'evoluzione tecnologica rende infatti equivoca la qualifica di "terminale", che sempre piu' ha prestazioni e caratteristiche analoghe a quelle di sistemi complessi di elaborazione (quali calcolatori, PABX, ..).

2.5) Mancano indicazioni precise sui sistemi e sui servizi di informatica che usano la rete per la distribuzione ma che restano, fisicamente e in termini di architettura OSI, fuori dall'infrastruttura di rete. Occorre infatti fare chiarezza:

- sui protocolli degli strati dell'architettura OSI compresi fra il 4 (Trasporto) ed il 7 (Applicazione);
- sui protocolli dei servizi applicativi specifici (all'interno dello strato 7), come, ad esempio, quelli per la gestione di transazioni in ambiente bancario, turistico, commerciale (EDI), grafico, ecc.
- sulle strategie relative alla creazione, diffusione, uso, verifiche di conformita' delle implementazioni, ecc., di norme elaborate per questi ambiti.

E' quindi importante che la Commissione chiarisca se abbia in preparazione un documento "gemello" del Libro Verde su questi aspetti o se invece in questo settore ritenga opportuno non prendere iniziative.

## Commento per punti

Vengono considerati nel seguito solo i punti sui quali ci sono commenti, intendendo che su quelli non citati vi e' accordo rispetto alla posizione comunitaria.

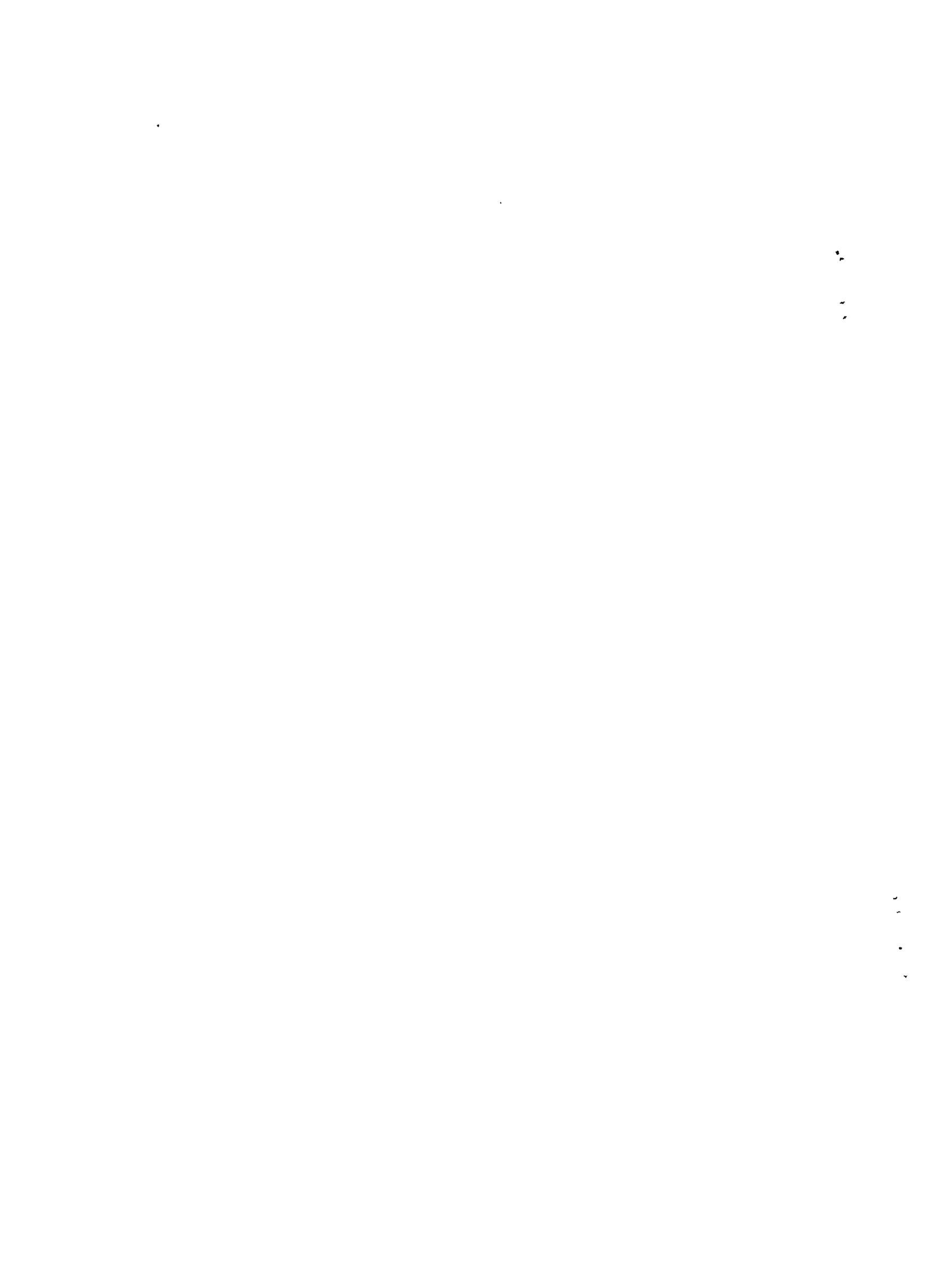
A) Affinche' il punto in oggetto sia chiaro, occorre precisare che la rete a cui si fa riferimento e' la rete pubblica. In essa, come gia' detto nel commento generale, la trasmissione e' monopolio, la commutazione interna e' pertinenza del gestore, mentre e' consentita la commutazione esterna alla rete ad uso pubblico da parte di apparati di utente, con regolamentazione e tariffazione da studiare opportunamente.

B) Per "servizio telefonico vocale" deve intendersi la trasmissione trasparente di un segnale analogico oppure, nella prospettiva delle reti digitali, di stringhe di bit, indipendentemente dalla loro origine (fonia, dati o immagini).

D) I servizi su cui i gestori dovranno impegnarsi prioritariamente sono quelli ad essi riservati. I gestori non dovrebbero invece essere forzati a competere su tutti i servizi ma dovrebbero godere di una autonomia tale da garantire loro flessibilita' nell'affrontare le situazioni locali di mercato e agli utenti uniformita' nel livello di servizi di base offerti nei diversi Paesi comunitari.

E) Deve essere chiarito che si fa qui riferimento alla fornitura dei soli servizi riservati (quelli del punto B).

F) Occorre parlare di offerta di "sistemi di utente" e non piu' di semplici "terminali" perche' l'evoluzione tecnologica rende questi ultimi poco significativi. Deve essere inoltre chiaramente indicato che l'organo di sezionamento (ad esempio la borchia d'utente) e' il limite di separazione tra il dominio del gestore dell'infrastruttura di rete e quello di utente.



Erläuterung und vorläufige Stellungnahme des VDMA  
zum Grünbuch der EG-Kommission  
über die Entwicklung des gemeinsamen Marktes für  
Telekommunikationsdienstleistungen und  
Telekommunikationsgeräte

Das Grünbuch der EG beschreibt die Grundzüge ihrer Telekommunikationspolitik und leitet als weitere Aufgabe ab, die institutionellen und ordnungspolitischen Rahmenbedingungen der EG-Mitgliedsländer auf dem Telekommunikationssektor konvergieren zu lassen. Die Voraussetzungen für ein gemeinsames Vorgehen innerhalb der EG werden zum einen Teil als bereits erfüllt und zum anderen Teil als erfüllbar angesehen. Auf dieser Grundlage werden für alle EG-Mitgliedsländer einheitliche telekommunikationspolitische Positionen vorgeschlagen:

- A) Die EG akzeptiert, daß die ausschließlichen und besonderen Rechte der Fernmeldeverwaltungen für Angebot, Bereitstellung und Betrieb der Netzinfrastruktur aufrecht erhalten werden (Netzmonopol). Sie akzeptiert aber auch für das ganze Netz oder für Teile desselben einen freizügigeren Status; auch dann ist die kurz- und langfristige Integrität der allgemeinen Netzinfrastruktur sicherzustellen.

Ein konkurrierendes Angebot von Zweiwege-Satellitenkommunikationssystemen ist zu erwägen. Es sollte fallweise für europaweite Dienste erlaubt werden, wenn die Lebensfähigkeit des/der Infrastrukturbetreiber(s) damit nicht wesentlich beeinträchtigt wird.

- B) Die EG akzeptiert weiter, daß eine begrenzte Zahl von Basis- (Grund)-Diensten als "reservierte Dienste" ausschließlich durch die Fernmeldeverwaltungen angeboten werden dürfen, wenn damit Aufgaben des öffentlichen und allgemeinen Interesses erfüllt werden. Die EG-Kommission sieht dies derzeit nur für den Telefon-Dienst (Sprachübertragung) als notwendig an.
- C) Alle anderen Dienste sollen uneingeschränkt angeboten werden können.

- D) Strikte Auflagen sollen die Einhaltung von Normen für die Netzinfrastruktur und die Dienste der Fernmeldeverwaltungen sowie für Dienste anderer Anbieter mit vergleichbarer Bedeutung sicherstellen.
- E) In einer EG-Richtlinie soll klar festgelegt werden, welche Auflagen die Fernmeldeverwaltungen den Anbietern von Wettbewerbsdiensten (auch von grenzübergreifenden Diensten) für die Benutzung des Netzes machen dürfen. Dazu soll ein Konzept für einen offenen Netzzugang (Open Network Provision, ONP) vorbereitet werden.
- F) Das Angebot von Endgeräten muß EG-weit unbeschränkt sein, wobei der erste Telefonapparat am Hauptanschluß für eine Übergangszeit ausgenommen werden kann. Satelliten-Erdstationen, die nur für den Empfang bestimmt sind, sind wie Endgeräte zu behandeln.
- G) Die hoheitlichen sind von den betrieblichen Tätigkeiten der Fernmeldeverwaltungen zu trennen.
- H) Die unternehmerischen Tätigkeiten der Fernmeldeverwaltungen sind strikt und fortgesetzt zu überprüfen (gemäß Art. 85, 86 und 90 EWG-Vertrag).
- I) Alle privaten Anbieter in den neu geöffneten Markt Bereichen sind strikt und fortgesetzt zu überprüfen (gemäß Art. 85 und 86 EWG-Vertrag).
- J) Die gemeinsame Handelspolitik der EG soll auch auf das Fernmeldewesen angewandt werden.

Die EG akzeptiert Unterschiede zwischen den Mitgliedstaaten in Bezug auf den öffentlich-rechtlichen oder privaten Status der Netzbetreiber. Falls die finanzielle Leistungsfähigkeit einer Fernmeldeverwaltung es erfordert, erlaubt die EG-Kommission, daß entweder

- a) der bloße Wiederverkauf der Sprachkapazität von Mietleitungen verboten wird oder
- b) benutzungsabhängige Gebührenelemente in die Gebühren für Mietleitungen einbezogen werden.

Zu den bereits eingeleiteten Maßnahmen der EG wie

- Beschleunigung der Konvergenz und Integrität der Netzinfrastruktur durch
  - Durchführung der Programme RACE und STAR
  - einheitlich digitale Mobilfunk-Kommunikation
  - europaweite Verwirklichung der ISDN-Empfehlung (86/659/EWG).
- Ausweitung der gegenseitigen Anerkennung der Zulassung für Telekommunikations-Endgeräte
- Richtlinie zur Öffnung des Zugangs zu öffentlichen Telekommunikationsaufträgen

schlägt die EG-Kommission in ihrem Grünbuch folgende ergänzende "Aktionslinien" vor:

- (I) Wesentlich verstärkte Entwicklung von Normen und Spezifikationen: Schaffung eines europäischen Instituts für Telekommunikationsnormen.
- (II) Bereitstellung eines "Offenen Netzzugangs" (ONP)
- (III) Gemeinsame Entwicklung europaweiter Dienste
- (IV) Europäische Position zur Satellitenkommunikation
- (V) Konzept für Drittländer (GATT)
- (VI) Analyse sozialer Auswirkungen.

## Stellungnahme des VDMA

Der VDMA begrüßt grundsätzlich die im Grünbuch der EG vorgeschlagenen Positionen sowie geplanten neuen Aktionen und nimmt dabei zu einzelnen Aspekten wie folgt Stellung:

1. Die ausschließliche Zuordnung des Angebots der Netzinfrastuktur zu den Fernmeldeverwaltungen (Position A) ist mit besonderen Auflagen insbesondere bezüglich der Gebührenregelungen zu verbinden:
  - Anpassung der Gebühren an die Kostenstruktur und den technischen Fortschritt, d.h. insbesondere Senkung der Ferntarife im Fernsprechnet und im ISDN
  - breites Angebot von Übermittlungsleistungen, insbesondere auch von pauschal tarifierten Festverbindungen.

(In diesem Zusammenhang sei auch auf die ausführliche "Position des VDMA zu den Telekommunikationsgebühren der Deutschen Bundespost" vom 26.11.1986 hingewiesen.)

2. Die "Erfüllung von Aufgaben des öffentlichen und allgemeinen Interesses" ist kein ausreichend klares Entscheidungskriterium für die Einstufung eines Dienstes in die Kategorie "Reservierte Basisdienste" (Position B). Insbesondere besteht die Gefahr, daß mit der umfangreichen Liste von Telediensten, die in der Empfehlung des EG-Ministerrats zum ISDN vom 22.12.86 enthalten ist, eine erhebliche Ausweitung dieser "Basisdienste" erfolgt. Die Fernmeldeverwaltungen könnten dagegen die ausschließliche Bereitstellung der Übermittlungsdienste übernehmen, das heißt jener Dienste, die sich auf die reine Übertragung und Vermittlung über das physikalische Netz (die Infrastruktur) beschränken. In diesem Sinne soll auch die Einstufung des Telefondienstes als "reservierter Dienst" verstanden werden. Auch hier sollten die über das Vermitteln von Telefongesprächen hinausgehenden Zusatzleistungen (z.B. Rufumleitung, Sprachspeicherung) nicht unter die reservierten ausschließlichen oder besonderen Rechte der Fernmeldeverwaltungen fallen.
3. Die Einrichtung eines europäischen "Instituts für Telekommunikationsnormen" (Aktionslinie I) wird im Umfeld der jetzt schon vielfältigen Gremien, die an der Standardisierung von Telekommunikationseinrichtungen und Telekommunikationsdiensten arbeiten, mit Skepsis betrachtet. Der VDMA hält die gegenwärtige Vorgehensweise bei CEN, CENELEC und CEPT für grundsätzlich ausreichend, um die im Rahmen des Europäischen IT-Normenprogramms anfallenden Arbeiten zur Normung der Funktionalen Profile zu bewältigen (EN, ENV). Dies gilt insbesondere wenn, wie geplant, mit EWOS (Euro-

pean Workshop for Open Systems) eine Koordinationsplattform geschaffen wird, um diese Profile europa- und weltweit abzustimmen. In diesem Rahmen sollte auch die CEPT die Verantwortung für die bis heute definierten NET wahrnehmen, dabei allerdings Vertreter der Anwender- und Herstellerseite hinzuziehen, um sie gleichberechtigt an den Entscheidungsprozessen mitwirken zu lassen. Die Erarbeitung von Grundnormen ("basic standards") soll weiterhin in der Verantwortung der nationalen Normenorganisationen liegen.

(Ein Fernziel könnte allerdings sein, ein "Institut für IT-Normung in der EG" aufzubauen, in welchem die gegenwärtig von CEN, CENELEC und CEPT wahrgenommenen Aufgaben zur Normung Funktionaler Profile (EN, ENV, NET) für die gesamte Informationstechnik zusammengefaßt werden. Die EWOS-Aktivitäten müßten dann mit denen dieses Instituts zusammengeführt werden. Ein solches europäisches "Institut für IT-Normung" sollte offen sein für die gleichberechtigte Mitarbeit aller interessierten Kreise und eng mit den internationalen Normenorganisationen ISO, IEC und CCITT zusammenarbeiten.)

4. Die Bereitstellung offener Netzzugänge durch den Netzbetreiber wird in den USA (Open Network Access - ONA) als notwendige Bedingung für einen fairen Wettbewerb zwischen Dienste-Anbietern mit gemieteter und eigener Netzinfrastruktur angesehen. Das im Grünbuch vorgeschlagene europäische Pendant "Open Network Provision - ONP" ist zu begrüßen, wenn es sich als Instrument zur Erzielung fairer Wettbewerbsbedingungen erweist. Es bedarf jedoch noch der genaueren Spezifizierung und internationalen Harmonisierung, bevor es Gegenstand einer EG-Richtlinie werden kann (Aktionslinie II).
5. Bei der gemeinsamen Entwicklung europaweiter Telekommunikationsdienste (Aktionslinie III) sollte nach dem Wortlaut des Grünbuchs darauf geachtet werden, "insbesondere das Potential von privaten Initiativen voll zu mobilisieren". Dies schließt auch minimale Nutzungsbeschränkungen und kostengerechte Gebühren für die benötigten Übermittlungs-(Träger)-Dienste ein. Damit wird auch ein Anreiz für private Mehrwertdienste geschaffen, die an speziellen Anforderungen bestimmter Benutzergruppen orientiert werden können.

Im übrigen stimmt die im Grünbuch der EG dargelegte Telekommunikationspolitik überein mit den Grundsatzposition des VDMA zur Telekommunikation.



Position des VDMA  
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Bereits im Jahre 1980 hat der VDMA seine Grundsatzpositionen zum Thema Telekommunikation veröffentlicht und dabei u.a. die technisch-organisatorischen Grundlagen für eine Trennung zwischen Monopolbereich der Deutschen Bundespost und markt-wirtschaftlichem Bereich im Telekommunikationssektor beschrieben. Die seitherigen Ansätze z.B. der Monopolkommission "Zur Rolle der Deutschen Bundespost im Fernmeldewesen" oder der Enquête-Kommission des Deutschen Bundestags "Neue Informations- und Kommunikationstechniken", die wirtschafts- und ordnungspolitischen Voraussetzungen für eine solche immer dringlicher werdende Trennung zu klären, wurden vom VDMA nachhaltig unterstützt und mitgetragen.

Der inzwischen vorliegende Bericht der Regierungskommission Fernmeldewesen bestätigt die vom VDMA schon bisher vertretene Haltung zu den Herausforderungen der Telekommunikationspolitik an Wirtschaft und Staat. Hierzu wird der Verband noch detailliert Stellung beziehen.

Aufgrund des rasanten technischen Fortschrittes in der Halbleitertechnik, der Konstruktion modernster Endgeräte, der digitalisierten und integrierten Übertragung von Sprache, Daten, Text und Abbildungen entsprechen die gesetzlichen Rahmenbedingungen immer weniger den Erfordernissen der privaten, gewerblichen und industriellen Nutzer der Telekommunikation.

Die Bundesregierung hat mit Einsetzung der Regierungskommission Fernmeldewesen im Jahre 1985 die Notwendigkeit erkannt, die Schere zwischen den technischen Möglichkeiten einerseits und den organisatorischen, wirtschaftlichen und rechtlichen Voraussetzungen andererseits zu schließen. Sicherlich kann die Liberalisierung einer über hundert Jahre gewachsenen Marktsituation nicht in einem einzigen Schritt vollzogen werden. Sie stellt vielmehr einen kontinuierlichen Prozeß dar, in dem auch künftige informationstechnische Entwicklungen ihren Niederschlag finden müssen.

Der VDMA empfiehlt, die für die informationstechnische Industrie wichtigen Empfehlungen der Regierungskommission Fernmeldewesen unverzüglich zu realisieren, insbesondere

- Liberalisierung des Endgerätemarkts

Der freie Wettbewerb bei allen Endeinrichtungen, auch mit Beteiligung der Deutschen Bundespost zu marktgerechten Konditionen, ist für den VDMA eine selbstverständliche Konsequenz der wirtschaftlichen Ordnung der Bundesrepublik

Deutschland. Hinsichtlich der Zulassung von Endeinrichtungen begrüßt es die informationstechnische Industrie, daß die bisherige Verfahrensweise, insbesondere was ihre administrativen Anforderungen, die Prüfzeit und die Kosten betrifft, auf ein vernünftiges Maß zurückgeschraubt werden soll.

- Wettbewerb bei den Telekommunikationsdienstleistungen

Konsequent im Sinne einer Neuordnung der Telekommunikation ist das Recht für private Unternehmen, alle Dienstleistungen der Telekommunikation, insbesondere auch die sogenannten Mehrwertdienste, selbst anzubieten und zu erbringen. Der VDMA akzeptiert den Vorschlag der Regierungskommission Fernmeldewesen, daß der Telefondienst vorläufig der Deutschen Bundespost als Monopol verbleibt. Gleichwohl ist abzusehen, daß durch die Integration mit anderen Telekommunikationsdiensten im Zeitalter des ISDN das Monopol im Telefondienst an die ordnungspolitischen Regelsetzungen für die anderen Telekommunikationsdienste angeglichen werden muß.

- Bedingtes Festhalten am Netzmonopol

Der VDMA wendet sich nicht dagegen das Netzmonopol der Deutschen Bundespost aufrecht zu erhalten, sofern entsprechend den Empfehlungen der Regierungskommission Fernmeldewesen die Bundesregierung darüber wacht, daß Fest- und Wählverbindungen zu angemessenen und wettbewerbsfähigen Bedingungen entsprechend dem qualitativen und quantitativen Bedarf von der Deutschen Bundespost zur Verfügung gestellt werden. Die von der Kommission empfohlenen Ausnahmen im Bereich drahtloser Netze, beim Satellitenfunk sowie bei grundstücksüberschreitenden privaten Kabelverbindungen werden vom VDMA begrüßt.

Liberalisierung und Gebührenpolitik sind untrennbar miteinander verknüpft. Der VDMA sieht sich in seiner bisherigen Haltung durch die Erklärungen des Bundespostministers bestätigt, daß die vorgesehenen Liberalisierungsschritte nur dann tatsächlich zu neuen Anwendungen und einer besseren Marktöffnung führen werden, wenn die heutigen nutzungszeitabhängigen Tarife für Festverbindungen deutlich gesenkt und mittelfristig durch ein anderes Gebührensystem ersetzt werden.

Der VDMA wird wie bisher alle Schritte unterstützen, die Empfehlungen der Regierungskommission Fernmeldewesen zur Neuordnung der Telekommunikation schnell und konsequent zu verwirklichen. Der VDMA wird auch in Zukunft an der Erarbeitung praktisch handhabbarer Lösungen mitwirken und in allen Detailfragen und Gremien seine fachliche Kompetenz und seine praktischen Erfahrungen einbringen.

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Anlage zum Mitglieder-  
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STATEMENT zum Grünbuch der EG-Kommission über die Entwicklung der  
Telekommunikation im Gemeinsamen Markt

## I Forderungen

1. Zur Beseitigung der bestehenden Wettbewerbsverzerrungen im Bereich der Telekommunikation der EG-Mitglieder ist es notwendig, eine Vereinheitlichung der Benutzungsbedingungen aller Fernmeldeverwaltungen der EG schnellstmöglich herbeizuführen.

Die EG-einheitlichen Benutzungsbedingungen müssen so liberal wie irgend möglich formuliert werden.

In den (vereinheitlichten) Benutzungsbedingungen muß festgeschrieben werden, daß jeder Teilnehmer die von ihm legal genutzten Wahl- und Festverbindungen in jeder ihm geeignet erscheinenden Weise nutzen darf.

Dies bedeutet, daß jeder Teilnehmer das Recht haben muß, über die genutzten Anschlüsse (Wahl- und Festverbindungen) Informationen jeder Art (Sprache, Daten, Festbilder, Bewegtbilder usw.) zu übertragen, Festverbindungen durch Kanal- bzw. Frequenzteiler aufzusplitten und gleichzeitig für verschiedene Zwecke zu nutzen, Nachrichten jeder Art für Dritte zu übermitteln, aber auch das Recht hat, seine Anschlüsse (Wahl- und Festverbindungen) teilweise oder ganz Dritten zur Nutzung zu überlassen.

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2. Der Auffassung der EG-Kommission (Zusammenfassung Seite 18, Paginierstempel-Nr. 027) "Es (würden) weiterhin bedeutende Unterschiede zwischen den Mitgliedsstaaten bestehen, die jedoch zu akzeptieren sind", muß mit Nachdruck widersprochen werden!!!

Es kann in einer Gemeinschaft nicht hingenommen werden, daß "... auch die Unternehmenspolitik bezüglich der Bereitstellung von Mietleitungen und des Wiederverkaufs von Kapazitäten auch künftig den Netzbetreibern überlassen werden darf."

3. Wenn die EG-Kommission bei dieser Auffassung bleibt, dann sind alle übrigen Bemühungen um Vereinheitlichung sinnlos. Dann bliebe es beispielsweise dabei, daß in Großbritannien Agenturen zum Nutzen der Anwender auch aus anderen Mitgliedsstaaten der EG weiterhin tätig sein dürften, aber in der Bundesrepublik auch künftig verboten wären.

Die bestehenden unterschiedlichen Nutzungsbedingungen begünstigen seit Jahren einseitig "große" (multinational tätige) Anwender und benachteiligen "kleine" (nur national tätige) Benutzer, sie wirken demzufolge nicht nur wettbewerbsverzerrend, sondern auch konzentrationsfördernd.

4. Besonders dringlich neben der Vereinheitlichung der Nutzungsbedingungen ist die gegenseitige Anerkennung von Zulassungen für Telekommunikationseinrichtungen jeder Art.

Dies bedeutet, daß künftig die Zulassung einer fernmeldetechnischen Einrichtung durch eine Fernmeldeverwaltung eines Mitgliedsstaates der EG automatisch dazu führen muß, daß diese Zulassung im Bereich der gesamten EG gilt.

Grundsätzlich ist für die Zulassung von fernmeldetechnischen Einrichtungen jeder Art den nationalen Fernmeldeverwaltungen vorzuschreiben, daß eine Zulassung nur dann verweigert werden darf, wenn die von der Fernmeldeverwaltung nachzuweisende Gefahr besteht, daß von dem zur Zulassung vorgestellten Gerät Störungen in das Netz ausgehen können.

Diese Forderung hat das Bundesverfassungsgericht der Bundesrepublik Deutschland für Endgeräte bereits mit dem Beschluß vom 12.10.1977 (1 BvR 216/217/75) festgeschrieben.

5. Um die bestehenden Wettbewerbsverzerrungen zu beseitigen, ist es darüber hinaus notwendig, daß in jedem Telekommunikationsdienstzweig kostendeckende Tarife eingeführt werden. Aller-

dings ist den Fernmeldeverwaltungen ein angemessener Gewinnzuschlag zuzugestehen, damit sie auch künftig in der Lage sind, Investitionen in neue Dienste und weitere Infrastrukturaufgaben zu finanzieren.

6. Mit der Durchsetzung kostendeckender Tarife in jedem Dienstzweig (siehe Nr. 5) ist die (volkswirtschaftlich kaum sinnvolle) Zulassung von Wettbewerb auf der Netzebene entbehrlich. Dies ist umso wichtiger, als eine präzise und leicht überprüfbare Abgrenzung zwischen Monopol- und Wettbewerbsbereich durch die zunehmende Integrierung von Sprache, Daten und weiteren Informationen (Festbild, Bewegtbild usw.) nicht möglich ist (z.B. ISDN).

7. Das Endgeräte-monopol der Fernmeldeverwaltungen der EG am einfachen Fernsprechkreisanschluß ist aufzuheben.

Es muß dem Benutzer überlassen werden, welche zugelassenen Endgeräte er benutzen will und seine Entscheidung jederzeit ändern zu können, ohne daß er dazu einer Genehmigung der für ihn zuständigen Fernmeldeverwaltung bedarf.

8. Die EG-Kommission muß darauf hinwirken, daß in jedem EG-Mitgliedsstaat durch eine unabhängige Institution überprüft wird, daß die nationale Fernmeldeverwaltung die vorgegebenen Bedingungen auch einhält.

Jeder Anwender, der sich benachteiligt fühlt, muß einen Anspruch darauf haben, daß die Aufsichtsbehörde seine Beschwerde überprüft.

9. Der EG gehören ausschließlich Mitglieder an, die das Prinzip der Rechtsstaatlichkeit anerkennen und praktizieren.

In einem Rechtsstaat hat aber eine Fernmeldeverwaltung ausschließlich dienende Funktionen für ihre Bürger (und natürlich auch Unternehmen und Institutionen der öffentlichen Hand) auszuüben.

Allein schon aus diesem Grund müßte die Erfüllung der in diesem Statement aufgestellten Forderungen selbstverständlich sein.

10. Die Realisierung dieser Forderungen ist mit absoluter Priorität voranzutreiben.

## II Anmerkungen zu den Vorstellungen der EG-Kommission

1. Das Ziel der EG-Kommission (Zusammenfassung, Seiten 12 und 13, Paginierstempel-Nr. 018 und 019), einerseits den Fernmeldeverwaltungen zur Sicherstellung ihres öffentlichen Dienstleistungsauftrages den "herkömmlichen" Fernsprechsprechdienst (Sprachübertragung) als Basisdienst im Monopol zu belassen und andererseits für die Mehrwertdienste Wettbewerb zuzulassen, ist nicht erreichbar.

Die Kommission schreibt selbst (Seite 12, Paginierstempel-Nr. 018), daß "eine stabile 'natürliche' Grenzlinie ... nicht möglich" ist.

Da die Kommission andererseits die Förderung des ISDN fordert, muß der Kommission klar sein, daß Sprache von der Übertragung anderer Informationen nicht mehr zu trennen ist.

2. Strikt abzulehnen ist die Vorstellung der EG-Kommission, "gemeinschaftsweite Standards" (Seite 20, Paginierstempel-Nr. 029) zu entwickeln.

Dies würde gegenüber der bisher üblichen Vereinbarung von Standards auf CEPT- bzw. CCITT-Basis einen erheblichen Rückschritt bedeuten und damit zwangsläufig neue Handelshemmnisse schaffen.

3. Genauso strikt abzulehnen ist die Bereitschaft der EG-Kommission, den nationalen Fernmeldeverwaltungen für eine zeitlich nicht konkret definierte Übergangszeit das Monopol an Endgeräten bei gewöhnlichen Fernsprechhauptanschlüssen (Paginierstempel-Nr. 024) zu belassen.
4. Wenn man dem rechtsstaatlichen Prinzip zustimmt, daß die Fernmeldeverwaltungen ausschließlich eine dienende Funktion den Bürgern, der Wirtschaft und der Öffentlichen Verwaltung gegenüber zu erfüllen haben, dann ist entweder überhaupt nicht vertretbar, daß die Fernmeldeverwaltungen am Wettbewerb in den Endgerätemärkten (im weitesten Sinne dieses Wortes) teilnehmen, oder dieses Recht muß zumindest mit dem Verbot gekoppelt sein, die Teilnahme am Wettbewerb durch Alimentierung aus Erlösen der Netzmonopole auch nur teilweise zu finanzieren.
5. Die Gesamtheit der Vorschläge der EG-Kommission birgt die Gefahr eine Überregulierung in sich, die dem Trend zur Liberalisierung zuwiderläuft.

VERBAND DER POSTBENUTZER E.V.  
Der Vorstand

Wilhelm Hübner  
-Vorsitzender-

30.9.87

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*Comments of IBM Europe*  
*to the Commission of the European Communities*  
*on the Green Paper*  
*on the Development of the Common Market*  
*for Telecommunications Services and Equipment*

*September 1987*

*IBM Europe*

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## 1.0 Introduction

IBM Europe is pleased to have the opportunity to submit these comments to the Commission of the European Communities on the Commission's Green Paper on the Development of the Common Market for Telecommunications Services and Equipment.<sup>1</sup>

These comments take into consideration IBM's experience in providing information processing and telecommunications equipment and services to our customers throughout Europe. Today IBM is an integral part of the European Information Technology industry, as we employ close to 100,000 nationals in Member States of the European Community (including over 5,000 engaged in research and development in six laboratories and development centers) and operate fourteen production facilities covering almost our entire range of products.

The requirements of our customers, who increasingly ask for products and services integrating telecommunications and information processing capabilities, reflect the growing interdependence of these two industry sectors. These emerging demands are in many cases constrained by the complexity and rigidity of telecommunications regulations and restrictions that can be found across Europe. This is of great concern to our customers and limits our ability, and that of other systems and service providers, to meet their requirements satisfactorily.

IBM Europe therefore welcomes the initiative of the Commission in seeking to foster a more open and competitive telecommunications regime in Europe. We have been particularly impressed by the work already achieved by the Commission in the past years in the field of telecommunications and by the openness of the consultation process that has been elected; it is in this constructive spirit that we wish to offer several thoughts that we believe will enhance the potential of achieving the Commission's objectives. Our aim is to contribute to the discussion on this important subject in order to promote rapid development of the Information Society in Europe. We believe that this goal is a common objective of users, of the Information Technology industry, of Telecommunications Administrations, of Member State governments, and of the European Commission.

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<sup>1</sup> COM(87) 290 final, Brussels, 30 June 1987.

## 2.0 Summary

*IBM fully endorses the pro-competitive directions of the Commission's Green Paper. The Commission has recognised the critical importance of telecommunications to the European economy and the need for increased competition on a Community-wide basis in order to ensure to all users the benefits of technological innovation.*

While the Commission refers to and even quotes from papers addressing user interests in telecommunications liberalisation, the starting point of the Green Paper seems to be the status quo. The principle question asked is where should competition be introduced.

*We suggest that the more appropriate starting point is the recognition that the goals of a Community-wide market can best be achieved through the maximum feasible reliance on open competition. Monopoly protection should be viewed as the exception, only to be permitted where it can be demonstrated that marketplace forces will not succeed in achieving certain publicly desirable goals.*

In order to ensure that the perspectives of all parties concerned are properly taken into consideration, it is necessary to draw upon the wisdom of experts representing myriad interests. The Commission established in 1983 a Senior Officials Group on Telecommunications (SOG-T). It appears however that SOG-T, as presently constituted, is comprised primarily of Telecommunications Administration representatives. Commission proposals on the limits of monopoly protection for Administrations and on obligations to be imposed on Administrations to enable the development of a competitive marketplace warrant a broader spectrum on consultation.

*IBM suggests that the Commission should reexamine the composition of this advisory body and encourage Member States to designate national delegations to SOG-T reflecting a consensus of informed opinions of national industry and user interests as well as those of the Administrations.*

There are several areas that we believe will be particularly important to achievement of Community objectives for completion of the internal market in telecommunications services and equipment:

- *Open Network Provision*

Essential questions to be considered include what comprises the monopoly network infrastructure, what are the requirements of users and competitive service providers for access to the network infrastructure, what is the proper boundary between the infrastructure and user-provided equipment, and how best to ensure the Community-wide availability of a broad spectrum of telecommunications services meeting user needs.

*IBM believes that so long as the basic network infrastructure is provided on an exclusive basis or subject to special rights, nondiscriminatory access for all users, including competitive service providers, must be ensured.*

- *Telecommunications standards and standardisation procedures*

Important matters for consideration at the Community level include terminal equipment type approval, standardisation procedures, and the Commissions' proposal for a European Telecommunications Standards Institute.

*We believe that the success of a competitive marketplace in telecommunications is dependent upon the establishment of simple and uniform interface standards for access to the basic network, developed in open fora with user and industry participation. At the same time, care must be taken that standards in the competitive arena are not made mandatory, so that the workings of the free marketplace will not be inhibited.*

- *Tariff principles*

A long history of different pricing practices in different Member States has resulted in tariff anomalies that have a tangible impact on the business community and on national and European economies.

*We observe that there is a critical need to rebalance today's distorted tariffs for switched services, not only as a matter of equity to business users but also as the best means to assuage Administration fears of 'cream skimming'. Business users and competitive service providers are highly dependent on leased circuits, and their availability at flat rate, cost-based tariffs must be ensured.*

- *Participation of Telecommunications Administrations in the competitive marketplace*

The Commission stated that Telecommunications Administrations should be permitted to participate in the competitive marketplace.

*We agree, but mechanisms must be established to ensure that they are not able to take unfair advantage of the fact that they also control the basic network infrastructure and offer reserved services under monopoly protection or special rights.*

*These issues are further discussed in subsequent sections of this paper.*

Our comments on the ten 'Proposed Positions' of the Commission, as set forth in Figure 13 of the Green Paper, are as follows :

**A) Network infrastructure:**

*IBM has no quarrel with national decisions to maintain a regime of exclusive provision or special rights for the operation of the public network infrastructure, so long as that term is narrowly defined to mean the physical network of transmission and switching facilities and does not include functions that can best be provided on a competitive basis. We point out, however, that competition in the network infrastructure may stimulate greater efficiencies in the operation of the network and improved responsiveness to user requirements.*

**B) Reserved services:**

*We agree with the Commission that the reservation of any services for exclusive provision or special rights must be narrowly construed and subject to periodic review. Telecommunications Administrations should be protected from competition only where it can be demonstrated that benefits to users are not likely to result from open competition.*

**C) Competitive services:**

*We welcome the proposal that all services not explicitly reserved to the Administrations be open to free and unrestricted provision subject to the general law. Conditions that some Administrations seek to impose on competitive service providers could, however, make a mockery of competition.*

**D) Standardised services:**

*A priori decisions that Member States should ensure the Community-wide provision by Telecommunications Administrations of an extensive menu of standardised services -- whether demand has been demonstrated or not -- could divert the Administrations from their essential infrastructure obligations. While it is indicated that not all of these services would be 'reserved', financial or other incentives available to the Administrations could damage the workings of the competitive marketplace.*

**E) Open Network Provision:**

*Open access to the network infrastructure on nondiscriminatory terms including cost-based tariffs is essential to the development of competition in telecommunications services. Conditions imposed on competitive service providers for their use of the network must be kept to a minimum, lest the workings of the free marketplace be impacted.*

**F) Terminal equipment:**

*We fully support the Commission's objective for free and unrestricted competition in all terminal equipment. We see no reason why the first telephone cannot also be provided competitively, as it is today in some Member States; and believe that digital as well as analogue network terminating equipment should also be provided competitively.*

- G) Separation of regulatory and operational activities:**  
*We endorse the Commission's proposal that the operational and regulatory activities of the Telecommunications Administrations must be separated. Care must be taken, however, to ensure that the regulatory authority is truly independent of the Administration's operational activities and encompasses all regulatory aspects, including tariffs for reserved services.*
- H) Legal review of Telecommunications Administrations:**  
*While it is heartening to see a clear statement as to the applicability of these provisions to the Telecommunications Administrations, we believe the Commission should provide guidelines as to what constitutes cross-subsidisation and other competitive abuses by Telecommunications Administrations, so long as they are granted special rights or exclusive provision of services.*
- I) Legal review of private providers:**  
*The general applicability of competition law to all undertakings should minimise the need for any special requirements applicable to competitive service providers to prevent abuse of a dominant position.*
- J) Common Commercial Policy:**  
*The development of a common commercial policy should help to further the Commission's competitive objectives in international fora such as the new GATT round, intended to reduce barriers to trade to telecommunications services, and the ITU WATTC in 1988, which presents a risk of extending restrictions inhibiting open competition in international telecommunications services.*

## 3.0 Open Network Provision

The primary responsibility of Telecommunications Administrations must be the efficient operation of the public network infrastructure and the provision of basic network services. Quality telecommunications capacity to handle myriad communication needs is essential to the continued growth of the Information Technology industry and its contribution to national economies.

### 3.1 Network Infrastructure

IBM has no quarrel with national decisions to maintain a regime of exclusive provision or special rights for the network infrastructure. The term 'infrastructure', however, must be narrowly defined to comprise the physical transmission and switching facilities operated by Telecommunications Administrations as a public obligation, including the necessary capability to manage and control the infrastructure. As network operators, the Administrations must be obliged to make available to users, on a nondiscriminatory basis, the capacity for transmitting information of a user's choosing, between points specified by the user, without change in the form or content of the information, at reasonable, cost-based rates, independent of the intended application or the type of information.

The Commission also proposes that voice telephone service be accepted as a service reserved, for the time being, to exclusive provision or special rights. We consider this acceptable only insofar as it is narrowly construed to include only the provision on a universal basis of public switched voice telephone service, and does not serve to impede the implementation of private voice networks or the provision of 'value-added' voice services on a competitive basis.

As privileged providers of the network infrastructure, Administrations must offer users a choice among basic network services - circuit switched, packet switched, and fixed connections or leased circuits. These are the essential building blocks for private networks and also serve as the backbone for competitive services. Providers of competitive services should not be forced to build their offerings on top of public switched services, but should have the flexibility of choosing the underlying transmission capacity best suited to their service design. Restrictions maintained by Telecommunications Administrations in many Member States must be eliminated so that the ability of the private sector to offer cost-effective competitive services is not inhibited.

IBM has observed with concern that the Council Recommendation on ISDN<sup>2</sup> does not include leased circuits in the list of services to be specified. Business users today are highly dependent on leased circuits for their voice and data communications requirements. They have made substantial investments in hardware and software utilising the advantages of leased circuits, and cannot be expected to abandon this investment. They will continue to need leased circuits at cost-based, flat rate tariffs.

Standardised interfaces to basic network services should be implemented and publicly disclosed to facilitate: (1) production of compatible terminal equipment; (2) network interconnection nationally and internationally; and (3) implementation of competitive services.

<sup>2</sup> Council Recommendation of 22 December 1986 on the coordinated introduction of the integrated services digital network (ISDN) in the European Community (86.659/EEC).

Once access to the infrastructure has been defined and implemented, provision of specialised services to meet a diversity of user needs can best be ensured through the mechanisms of the free market. Open access to the network is the essence of effective competition in telecommunications service.

*Summary:*

- *Telecommunications Administrations have an obligation to provide a menu of cost-based facilities, including leased circuits.*
- *The 'reserved services' category proposed by the Commission should be limited to public switched telephone service.*
- *Special rights for the use of network facilities should be limited to the provision of reserved telephone service.*
- *Access to reserved facilities and services must be available through standardised and publicly disclosed interfaces.*
- *Anticompetitive practices such as discriminatory tariffs, limitations on interconnection of leased circuits to public switched networks, and restrictions against the offering to third parties of applications involving message switching must be eliminated.*

### 3.2 Open Network Access

So long as Telecommunications Administrations continue to enjoy special rights with respect to the network infrastructure, they should not be allowed to operate the network so as to favor their own competitive services and foreclose efficient access for the provision of competitive services, nationally and internationally. To deter this action, the Commission proposes Open Network Provision (ONP) to require Administrations to offer network access on a nondiscriminatory basis. ONP is a critical step towards fair participation by Administrations in offering competitive services.

IBM is encouraged that the Groupe d'Analyse et de Prevision (GAP) established by the SOG-T has already initiated a study of user requirements for nondiscriminatory access to Administration networks. In order to develop and stimulate competitive services, the ONP concept has to be developed in conformity with service provider and other user perspectives and requirements.

Cost-effective access to transmission and switching elements of the Administration networks is a primary requirement. Users may choose to access competitive services through packet- or circuit-switched access or via leased circuits. In all cases, the user's information stream, including protocols of his choosing, should be transmitted transparently to the competitive service provider. Where users access the network at low bit rates, Administrations should offer service providers the option of concentrating or multiplexing input from several users so as to minimise the transport costs to the service provider premises.

ONP should be on an equal access basis, at the same tariffed rates charged to the Administration's own competitive services. Basic service functions should be made available to an Administration's competitors on a stand-alone basis with technical

specifications, functional capabilities, and other quality and operational characteristics (such as installation and maintenance time) equal to those available to the Administration's competitive services.

With the evolution to digital technology, there is increasing intelligence in the network which can offer greater functionality for competitive service providers. Wherever technically feasible, ONP should include such options as reverse charging, abbreviated dialing, call barring, and the designation of customer-selected closed user groups. Another option should be 'virtual dial' capability, which provides users with local public switched telephone access, but routes calls automatically to a node of the chosen service provider. Calling number identification and answer supervision are other important features that should be made available.

A range of diagnostic and control options should also be available so that competitive service providers can achieve their own network management objectives. Such options should include, for example, access to information on the status of a user's local access line, and the ability of a service provider to perform loop-back testing from his own premises.

In order to fully analyse the impact of ONP on ISDN, it becomes necessary to develop a list of interfaces required to satisfy ONP and compare those with the interfaces planned in the ISDN environment. For example, the CCITT schematic of ISDN reference points depicts a point 'M' for specialised service providers and a point 'P' for specialised network resources, but there appear to be no efforts underway to specify the interfaces at these reference points in CCITT or CEPT.<sup>3</sup> We suggest that the Commission should encourage prompt standardisation of these interfaces on a compatible basis, so that competitive service providers can be assured of nondiscriminatory access to the specialised resources of the network infrastructure.

Properly defined, ONP can enable competitive entrepreneurs to offer users a wide range of cost-effective, innovative services on a pan-European basis, and enable Europe to become a major world-wide influence in telecommunications and information services. As a provider of value-added network services throughout Europe and as a supplier of information technology systems used by our customers in their own value-added networks, IBM would welcome the opportunity to offer our technical expertise to this important undertaking of the GAP.

*Summary:*

- *IBM fully supports the Commission's emphasis on ONP to achieve European-wide private networks and competitive services.*
- *The definition of ONP is essential to successful achievement of other action lines proposed in the Commission's Green Paper.*
- *ONP content should be defined by users, industry, and the Administrations on equal terms, and should be in line with international standards.*
- *ONP definition should be based on a set of basic functional elements as unbundled building blocks for use in private networks and competitive services.*

<sup>3</sup> CCITT Fascicle III.5 - Figure 4,1.310.

### 3.3 Network Termination Point

IBM supports the Commission's commitment to a Community-wide market in telecommunications terminal equipment. When terminal equipment is competitively obtained by the user, the physical boundary between the network and the user's equipment must be clearly defined so that the interface can be precisely specified. The most natural physical boundary is a passive termination of the local loop interconnecting the user's premises with the network provider's central office. This boundary most economically permits users to interconnect their equipment and enables Telecommunications Administrations to minimise their costs.

Some Administrations argue that termination equipment should be included on the network side of the boundary, thereby inhibiting effective competition. For today's networks the Commission has resolved this question in favor of competition with respect to both stand-alone and integrated modems previously provided by Administrations on an exclusive basis.

We are concerned, however, that the Council Recommendation on ISDN implies that for basic access 'at least the NT1 function' will be provided by the Administrations. Administrations should be permitted to provide NT1 as a user option, but users should also be free to attach their equipment at a simple 2-wire interface defined at the 'U' reference point.<sup>4</sup>

There are those who argue that definition of the interface at 'U' is dependent on loop technology; but while it is true that, just as with analogue loops, there will be a range of minimum and maximum signal levels and characteristics, specifications can be set that are firm and stable within their range. Another argument is that the loop-back function on customer premises is needed for central office maintenance of the local loop. The loop-back function, however, can be precisely specified as a requirement for user-provided as well as Administration-provided equipment.

A standardised interface at 'U' is the only way to facilitate a Community-wide market in NT1 equipment, enabling scale economies and assuring cost-effectiveness. Allowing users the freedom to select their NT1 supplier will help to develop the marketplace, and will also enable equipment manufacturers to achieve economies of scope by incorporating NT1 functions in their terminal equipment offerings. If 'U' is standardised on an international basis, it will also permit European manufacturers to penetrate the non-European environment.

Until the interface at U is standardised, manufacturers may prefer to produce terminal equipment that connects at the established interface at 'T', and Administrations should offer this option. The Council Recommendation on ISDN proposes that the basic access interfaces at 'T' and at 'S' be identical, so that the same terminal equipment can be attached to NT1 or to NT2 (eg, a PABX); and we agree that this is desirable.

At the same time, however, it should be recognised that the inside wiring on user premises, as between a PABX and telephone handsets, may be incapable of supporting a four-wire 'S/T' interface. To ensure that users will be able to access ISDN without going to the expense of four-wire cabling, a simpler two-wire interface on the terminal side of a PABX will also be needed; this should be defined to be the

<sup>4</sup> NT1 (network termination 1) includes functions broadly equivalent to layer 1 of the OSI reference model; 'U' is the reference point between the NT1 and the exchange LT (line termination).

same as the interface specified at 'U', so that a telephone handset, for example, can be connected to a PABX or directly to the ISDN.

*Summary:*

- *Network terminating equipment for digital networks (eg. NT1 for ISDN) should be competitively provided, just as the Commission has decided with respect to terminating equipment for analogue networks (eg. modems).*
- *The interface at the ISDN 'U' reference point should be standardised internationally.*

### 3.4 Community-Wide Services

The Green Paper proposes that Member States ensure the Community-wide availability of an extensive array of services, including several value-added services. We welcome the concept of Community-wide services.

A preordained catalogue of such services, however, does not ensure acceptance by potential users. We suggest, rather, that a critical mass can best be achieved if the market for new services is allowed to evolve naturally, in response to user requirements. This would allow small and medium-sized as well as larger entrepreneurs to offer innovative services without substantial financial risk. There would be no need to impose interconnection obligations on these service providers since they would be motivated to interconnect with others in order to broaden the appeal of their services.

If Administrations are obliged to offer a menu of standardised teleservices on a universal basis, they will be subjected to financial burdens if the expected demand does not materialise. Offsetting these burdens through special financial considerations would not solve the problem, since that would only transfer, not eliminate, the costs. Moreover, if competitive services are provided on a preferential basis by Telecommunications Administrations, then the capabilities and services that could be developed by other service providers will not be realised.

#### 3.4.1 MDNS - A Case in Point

The CEPT is currently considering a cooperative venture among European Telecommunications Administrations to provide Managed Data Network Services (MDNS) on a pan-European basis. MDNS offer users and application service providers another option to establishing and managing their own leased circuit networks. They not only offer users added function but also facilitate the performance of application services and stimulate the introduction of new applications. Thus an MDNS provides application independent techniques, which might include security, problem management, and performance monitoring. These form the basis on which the MDNS provider himself, his customer, or a third party such as an application provider or a software house could supply specific applications services.

MDNS are already provided competitively in the UK, and on the continent within closed user groups; but restrictions on the use of international leased circuits have inhibited the development of MDNS throughout Europe and overseas. Telecommunications Administrations, either individually, or in concert with one another,

should be permitted to offer MDNS only on the same basis as other service providers. If they were to offer MDNS by means of privileged access to the underlying network facilities, it would be impossible for others to compete on terms that are at all fair. As a result, the market power of the Administrations would be extended. Any reduction in entry to this market, or any extension of the market power of the Administrations, would inevitably reduce the choice and range of services available to users.

*Summary:*

- *Demand already exists for a diversity of Community-wide services.*
- *The response to this demand will more quickly materialise in an open and competitive marketplace.*
- *Competitive service providers need ONP to permit achievement of the Commission's objective of Community-wide services.*
- *MDNS should be recognised as a competitive service and by no means a part of the infrastructure.*
- *MDNS warrants special attention by the Commission to properly safeguard the business community from the potential of unfair practices when Telecommunications Administrations also participate.*

## 4.0 Telecommunications Standards

The success of a competitive marketplace in telecommunications services and terminal equipment is dependent on the establishment of simple and uniform interface standards for access to the basic network.

We agree that those standards that address safety and protection of the network against harm and personnel against injury can be made mandatory. Standards however also have a place within the competitive marketplace; here, compliance ought to be voluntary, lest the benefits of competition be lost. Voluntary standards have been highly successful in the information processing area where, for example, there is almost uniform voluntary compliance with International Standards for the Cobol programming language, for the Universal Product Code for consumer products, and for Magnetic Ink Character Recognition for bank checks.

### 4.1 Terminal Equipment Type Approval

The Council Directive on terminal equipment type approval<sup>5</sup> is a significant step towards simplifying and expediting the type approval process. The establishment of Community-wide NETs<sup>6</sup> will reduce the burden on manufacturers who today must tailor equipment to disparate national requirements for interfacing with public telecommunications networks and will facilitate the development of a Community-wide market in terminal equipment.

We express concern, however, that NETs currently under development by the CEPT might result in mandatory conformance to specifications beyond those necessary to ensure safety of users and network employees and to ensure protection of public networks from harm. The Council Directive includes as a fourth requirement 'interworking of terminal equipment, in justified cases', although this is not explained. IBM does not object if this refers to requirements that terminal equipment provide proper signals for network usage accounting or comply with certain transmission signal characteristics such as maximum transmit level so as not to interfere with other network subscribers; such requirements are appropriate to 'access' NETs (eg, proposed NETs 1-4). It should not be used, however, to establish mandatory conformance with additional requirements, such as for example end-to-end protocols.

Experience in a number of Member States has demonstrated that manufacturers are motivated to comply with standards on a voluntary basis to achieve, for example, compatibility with public services. While harmonisation of such specifications among Member States will facilitate compliance, it does not justify defining the scope of type approval requirements to include any requirements beyond the minimum necessary to achieve personal safety and network integrity.

If users seek assurance that terminal equipment is compatible with a particular service, or is able to interoperate with other terminals, they can request manufacturers to declare conformity. Such procedures would be less costly and time consuming than including these requirements in the type approval process, and would allow innovative products to be brought to the marketplace more rapidly.

<sup>5</sup> Council Directive of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment (86/34/EEC).

<sup>6</sup> Normes europeennes de telecommunications.

For terminal-specific NETs (eg, proposed NETs 5-9), which are application specific, we believe that voluntary standards would be sufficient. Today interoperability has been achieved on more than 600 million telephones worldwide without mandatory interoperability standards. Thus while a mandatory NET would be needed for every basic network service, for all other services a voluntary standard would suffice.

In order to facilitate interworking of terminal equipment with public services, international rather than European standards should be established, with the participation of users and manufacturers. Standards addressing telecommunications functions must meet world-wide user requirements if European manufacturers are to participate effectively in world markets.

Manufacturers must also be free to improve the marketability of their products by incorporating additional features and functions beyond those required for interfacing with public services, such as the variety of enhancements that can be implemented in PBXs.

Mutual recognition of test results is a welcome initial stage. As Member States develop confidence in these procedures, we encourage the Commission to propose further liberalisation through the acceptance of manufacturer verification of compliance and the mutual recognition of type approval, which will further stimulate the development of a Community-wide market.

*Summary:*

- *The terminal equipment type approval initiatives of the Commission are welcome, and we support the NET concept.*
- *Mandatory conformance should be limited to standards dealing with the safety of users and network personnel and with prevention of harm to the network.*
- *Conformance to other standards as for example for interworking should be voluntary.*
- *There should be no limitations on the freedom of manufacturers to incorporate additional functions or features.*
- *The Commission action line on mutual recognition of type approval should be implemented promptly, with national specifics reduced to a minimum.*

## 4.2 Standardisation Procedures

The Council of Ministers has entrusted significant responsibility for the development of Community-wide NETs to the CEPT, an association where membership is restricted to Telecommunications Administrations. As a consequence, NETs to be established by the CEPT (and by the TRAC established under the CEPT Memorandum of Understanding) are likely to reflect primarily the views of Administrations and may not be responsive to the needs of users and terminal equipment manufacturers.

Only recently has the CEPT allowed industry participation in its standards-making activities. Specifically, it allows national delegations to technical meetings to in-

clude at most two industry representatives and allows ECMA and ECTEL each to send two representatives. While this is a step in the right direction, it does not go far enough. There are several shortcomings:

- CEPT meetings where work items and schedules are established remain closed to industry participation.
- There is an arbitrary limit on the number of industry representatives on national delegations to technical working sessions, inhibiting the ability of Member States to avail themselves of technical expertise available outside the Administrations.
- Users and industry members do not have voting rights.
- An interactive process of consultation during the development of each standard, both by representative national review groups and by the sponsoring organisations, is essential to achieve acceptability.
- National delegations of most Member States are led by Telecommunications Administrations which are not obliged to represent a national consensus of users, suppliers and the Administrations.
- Participation is not open to user bodies such as ECTUA and INTUG, many of whose members are well qualified to make valuable technical contributions.
- There is no opportunity for industry or user consultation or involvement in the TRAC decision process on NETs.

*Summary:*

- *Users and the telecommunications and information processing industry should have an equal voice with the Telecommunications Administrations in the development of standards.*
- *Users and the telecommunications and information processing industry should have an equal voice with the Telecommunications Administrations in the decision process on NETs.*

### 4.3 *European Telecommunications Standards Institute*

IBM recognises the need for better staffing and improvements in the process of creating harmonised telecommunications standards for Europe. However, we do not feel that there is an immediate need to establish a European Telecommunications Standards Institute.

By improving the openness of the CEPT process, and increasing industry and user participation, significant progress can be made towards the harmonisation of telecommunications standards.

Recognising that CEPT has the European responsibility for the production of NETs in accordance with Council Directive 86/361/EEC, CEPT should provide a mechanism by which equipment suppliers and users can participate in the management of the process. Also, improving CEPT procedures, such as strengthening the supporting secretariats and improving the *modus operandi*, could help to produce acceptable results more expeditiously.

We do not agree with the suggestions that acceptable standards could be written by people recruited on long-term assignments. The most suitable people are those with detailed current experience of the subject area of the standards. Within months their knowledge of the subject would become outdated if they were withdrawn from their professional activities. Also, long-term assignment to standards writing alone is unlikely to attract those with the best talents.

In the long term, consideration should be given to the possibility of establishing a framework for the integration of the multiple functions that are developing standards in Information Technology and telecommunications. Such a framework which might constitute a European-wide standards institute would allow for the participation of all interested parties and provide an interrelationship with the national standards activities.

Of utmost importance to the success of harmonisation is the need for close cooperation between CEPT, CEN/CENELEC and international organisations such as IEC, ISO and CCITT to ensure that European standards and International Standards are not contradicting each other. This should provide the European platform for global harmonisation. National standardisation bodies should continue to develop 'base' standards (standards which are the basis for Functional Standards) and contribute to the International Standards process.

*Summary:*

- *At this time we do not believe that a European Telecommunications Standards Institute should be created.*
- *By improving and opening the CEPT process for developing technical positions and standards to all interested parties, including industry and user organisations, the Commission will be able to realise its objectives.*

## 5.0 Tariff Principles

A long history of different tariff practices among the Member States has resulted in anomalies that have a tangible impact on the business community. Today, there exist four-fold price differences for the same telecommunications service in different European countries; this clearly demonstrates that tariffs are not in line with economic reality.

In a purely competitive world, prices are based on costs.<sup>7</sup> That is, if a company prices its offerings above costs, they will fail in the marketplace; if it prices them below costs, the company will fail too. Tariff principles in the area of reserved services should reflect this same cost orientation.

In telecommunications, the well-known cross-subsidisation of local telephone services by long distance has been a burden on heavy users of long distance services, primarily businesses. Most Telecommunications Administrations are taking unreasonable advantage of their exclusive franchises and are 'cream skimming' their large customers in a way that is no longer affordable or in the public interest. Telephone charges are a cost of doing business, and like other costs must be reflected in the prices charged to consumers for products and services that are the end products of businesses.

We believe that the proper approach is the rebalancing of tariffs to follow cost trends. We therefore welcome the Commission's direction towards cost-based tariffs, and the recognition that some tariff rebalancing is necessary. In arguing for a 'fair trade off' between cost-orientation and universal service, however, the Commission lends weight to the myth that there is a conflict between the two objectives. IBM does not agree.

Reducing long distance tariffs to bring them in line with costs would inevitably mean an increase in local rates, but this should not be viewed as a burden on society. The Director General of OFTEL in the UK has stated that reducing long distance charges is socially desirable as it helps the regions, even the poor in those regions, and removes some of the unjustified privilege of urban dwellers.

Most significantly, cost-orientation of local and long distance telephone tariffs would remove both the incentive and the potential for 'simple resale', that is, the offering of public switched voice services over leased circuits.

To allay concerns that increased local telephone rates would impact the penetration of telephone service, a subsidised service targeted to the infirm and pensioners could be implemented if a Member State determined it to be necessary. Any subsidy that may be needed for some telephone subscribers should be visible to regulatory authorities and preferably be borne out of public funds. While it may be decided to finance such a subsidy out of general telephone revenues, it would be unfair to pass any part of the costs onto users of other telecommunications services such as public data networks or leased circuits.

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<sup>7</sup> The term 'costs' in this sense includes not only operating expenses but also interest on loans, depreciation, and a reasonable return on investment

**Summary:**

- *The Commission's direction towards cost-based tariffs is welcome.*
- *The burden of subsidised local telephone service should not be passed on to users of other services.*

### 5.1 Leased Circuit Tariffs

The Commission postulates a need to reduce the risk of potential 'cream skimming' in order to preserve the financial viability of Telecommunications Administrations, and proposes that usage-sensitive tariffs for leased circuits and banning simple voice resale should be considered acceptable approaches, leaving it to the Member States to elect which they choose to implement. Neither should be considered an acceptable alternative in the long term; but a ban on simple voice resale at least has the merit of minimum side effects.<sup>8</sup>

While usage-sensitive tariffs for leased circuits may in fact deter simple voice resale, they would also severely impact private voice and data networks and stifle the development of value-added services, while at the same time imposing the costs and other burdens of measurement on users and/or on Telecommunications Administrations.

Users select leased circuits for reasons of reliability, availability, response time, security, the ability to use bulk encryption, flexibility of bandwidth allocation, network management and control, to name just a few. The availability of flat rate leased circuits has enabled the implementation of applications that are not feasible over the switched network, such as computer aided design and computer aided manufacturing (CAD/CAM), that significantly increase the efficiency of companies in such industries as aircraft and automobiles. European firms with world-wide operations need to manage their own networks for file transfers, document distribution, and secure electronic mail that transcends time zones; manufacturers need the ability to have instant communication with their suppliers and dealers, reducing the need to maintain large stocks of inventory.

The tendency in some Member States to introduce usage-sensitive charges, or surcharges, for leased circuits would impact the profitability and international competitiveness of European firms. Such non-cost-based anomalies would make it impossible to base investment decisions on an informed assessment of technological and productivity gains.

Prof. von Weizsaecker in chapter III of his book convincingly demonstrates the adverse impact of excess leased line charges not only on the growth of the VANS market but also upon a nation's entire economy.<sup>9</sup>

Pricing distortions, developed to achieve near-term objectives, are not sustainable in the long run. Once set in motion, however, they are difficult to alter. The in-

<sup>8</sup> This is the interim approach that has been adopted by the UK, with a commitment to re-examine it in 1989.

<sup>9</sup> C.C. von Weizsaecker, 'The Economics of Value Added Network Services' (Cologne: C.C. von Weizsaecker, 1987).

roduction of a new regulatory regime offers a unique opportunity to effect an orderly transition from today's distorted tariff patterns to a rational, cost-based system that better serves the needs of users and telecommunications administrations, and promotes efficient utilisation of the telecommunications infrastructure.

**Summary:**

- *The availability of leased circuits should be guaranteed throughout the Community.*
- *Tariffs for leased circuits should be at cost-based flat rates.*
- *For a transitional period, banning of simple resale of leased circuits to provide public switched telephone service is a reasonable response to Administration concerns.*

## 6.0 Role of Administrations in Competitive Markets

IBM agrees with the European Commission that Telecommunications Administrations should be permitted to participate with other entities in the free and unrestricted provision of terminal equipment and competitive services.

If users are to benefit fully from competition in terminal equipment and telecommunications services opened to unrestricted provision however, it is important that Telecommunications Administrations compete equitably when they participate in the competitive marketplace. If Administrations are able to derive unfair advantages from the fact that they also control the basic network infrastructure and offer reserved services under monopoly protection or special rights, the competitive marketplace will be inhibited.

The following are key elements to ensuring fair competition by Telecommunications Administrations:

- Accounting separation to protect against unfair cross-subsidisation;
- Nondiscriminatory availability of basic transmission;
- Oversight of the Telecommunications Administration by an Independent Public Authority.

Each of these is addressed briefly below.

### 6.1 Accounting Separation

We are encouraged by the Commission's position that it regards the Telecommunications Administrations as commercial undertakings subject to the application of Community competition law and that it proposes strict continuous review of their operational activities under these provisions, particularly as applied to practices of cross-subsidisation of competitive activities by revenues from reserved activities. We are concerned, however, that cross-subsidisation may be difficult to detect, or that the impact on their competitors and on the public at large may be difficult to correct after the fact.

If the costs of a Telecommunications Administration's terminal equipment or competitive service offerings are improperly attributed to its reserved services, users of the reserved services will bear the burden, and participation in the competitive arena will be impacted. We believe that greater transparency in Administration accounting is required, and that the Commission should propose principles for effective cost allocation and accounting procedures to segregate costs, revenues, assets and liabilities between an Administration's reserved and competitive activities.

*Summary:*

- *Greater transparency in Administration accounting is required as regards the costs and revenues for reserved services and facilities and as regards transactions between reserved and competitive accounts.*
- *More specific guidelines would be welcome on accounting separation between reserved and competitive accounts.*

## 6.2 Availability of Basic Transmission

The nondiscriminatory availability of basic transmission is essential to the provision of competitive services. We are encouraged by the Commission's proposal that the Telecommunications Administrations be subject to clear obligations to interconnect and to provide access to the network infrastructure for competitive service providers – Open Network Provision or ONP. We believe it is essential that competitive service and equipment providers and users of telecommunications services have an opportunity to participate fully in the development of ONP. We offer the Commission specific suggestions on what we consider to be the most important aspects of ONP in Section 3 of this paper.

Basic transmission utilised in the Administration's competitive services should be functionally equivalent and at the same cost-oriented rates and on the same schedules, terms and conditions as available to competitive service providers.

Competitive service providers and end-users must be free to attach to the basic network infrastructure any terminal equipment of their choice, subject only to requirements of personal safety and prevention of harm to the network.

Technical information on network operating characteristics and interfaces to basic transmission offerings of the Administrations should be available on a nondiscriminatory basis to all providers of competitive services and terminal equipment.

*Summary:*

- *Competitive service providers and end-users must be assured of nondiscriminatory access to the network infrastructure.*
- *Technical information on infrastructure interfaces should be made available on a timely and nondiscriminatory basis.*

## 6.3 Oversight by an Independent Public Authority.

We believe that fair competition by the Telecommunications Administrations is feasible only if in each Country an independent Public Telecommunications Authority is established overseeing the need for and availability of basic transmission, safeguarding competition, and carrying out the regulatory functions (hereinafter called the Authority).

The Authority should oversee the reserved operations of the Telecommunications Administration to ensure availability of adequate basic transmission. The Authority must ensure that users and manufacturers are continually involved in the definition of the reserved services that best suit their requirements. In addition appropriate appeal procedures for any disagreement with a Telecommunications Administration's reserved activities in general must be made possible.

The Authority must safeguard fair competition wherever the Telecommunications Administration also engages in competitive activities. The Treaty of Rome gives the Commission of the European Communities clear authority to ensure fair competition in telecommunications services and products. We are encouraged by the Commission's willingness to take action, as evidenced in the case of cordless telephones and modems and in the case of telex forwarding in the UK. The full powers of the Treaty of Rome should be used to ensure that both the full intent of the policies and their time scales are met by all Member States. Specifically the national Authority should have a mandate to establish the necessary measures as mentioned above, and oversee adherence to these.

The Authority should carry out the telecommunications regulatory functions in the Member State. It should be responsible for various specific regulatory functions now carried out by the Telecommunications Administrations in many Member States. Specific examples are the attachment policy to public networks, including the establishment of minimum requirements for type approval of terminal equipment, as well as Member State representation on telecommunications matters in regional and international organisations such as ITU, CCITT, CEPT, and the European Community.

The establishment of such an Independent Authority would necessitate institutional changes in some Member States. These changes should be carried out with a view to appropriate representation of all involved parties: users, manufacturers, Telecommunications Administrations, and government, and with a view to safeguarding competition in a European, not just a national, context.

*Summary:*

- *The Commission direction on independent public authority oversight is welcome.*
- *This authority should not report to the government Ministry responsible for the provision of the network infrastructure.*
- *The independent authority's responsibilities should encompass: tariff principles and levels, standards, type approval, resolution of issues between the Administrations on the one hand and their users and competitors on the other hand, and representation of national interests to regional and international bodies.*

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Brussels, December 1, 1987

IDEA - International Data Exchange Association -

POSITION PAPER ON GREEN PAPER (FINAL)

1. Presentation of IDEA

IDEA groups most all major EDI network operators (VANS) and users in Europe and beyond, and includes such influential bodies as the Customs Co-operation Council, the International Article Numbering Association and CEPT. Electronic Data Interchange is, by nature, international and spans not solely the European but the world's horizons. IDEA is built upon this understanding, although the Association is European in character and has, consequently, a strong interest in European activities aimed at enhancing the EC market. The result is that a majority of IDEA members are based in Europe and interested in promoting Europe's economy. In addition, the standardization of EDI worldwide will stimulate the European economy since EDI will facilitate trade with non-E.C. member States. IDEA has, as such, a substantial interest in the development of a European policy favouring deregulation and private enterprise. The appendix gives more details about IDEA.

2. Endorsement of the Green Paper

IDEA welcomes the E.C. approach towards telecommunications and its firm stand on promoting competition and removing restrictions for the usage of telecommunications. IDEA asserts that E.C. efforts in the telecommunications market must move towards :

-Harmonisation of the development and the provision of telecommunications infrastructures and services throughout member States. The STAR program is a case in point. Special attention should be paid to synchronising the introduction of ISDN in all member States so that the services for voice, and certainly data transport mechanisms, are usable within the Community in the same way and at the same time, and to an acceptable degree (reference to the 86/659 recommendation of the EEC).

European-wide harmonised telecommunications services are vital for Electronic Data Interchange and thus for trade. This requires an Open Network Provision framework. At the same time we would also support a smooth transition from to-day's services to those of the next century.

-Harmonisation of tariffing principles and pricing strategies allowing competition between services so that the implementation of EDI will provide the European economy with a vital competitive edge.

-Provision of harmonised security and secrecy mechanisms, as an integral part of the telecommunication services, always allowing for the privacy aspects of both voice and data transmission to be taken into account.

Specific attention is requested for this important aspect of data transmission in the standardisation work at network level.

At the same time we would insist that end-to-end security and secrecy mechanisms should remain under the full authority of the end user.

-Provision of harmonised user oriented access on the network. When maintaining the network, the services offered for use should be maintenance checked at all times.

As far as access to the basic network is concerned, all service providers should have equal access to the network functions.

-The legalization of electronic documents, as is the case for telex documents.

Idea strongly suggests that exhaustive studies and directives be issued on the legal aspects of electronic data usage for general trade.

### 3. User consultation

IDEA welcomes the principle of user consultation established by the E.C. Commission. The Association feels that this approach is consistent with a sound planning policy which results from the rapid evolution of the telecommunications and information technology markets.

IDEA recommends the creation and/or improvement of a channel for the voicing of end-user opinion. To this extent the SOGT should be enabled to represent all of the parties concerned including telecommunications operators, industries and users.

IDEA proposes to voice the specific needs of the operators and users of Electronic Data Interchange regarding telecommunications, since they provide a major sector forum.

#### 4. Standards

IDEA strongly supports the Community efforts towards the establishment of universal standards and in particular, work towards the Electronic Data Interchange for Administration, Commerce and Transport (EDIFACT) and related efforts such as ISO 7-Layer model and X400.

At the same time IDEA is convinced that the Commission will take all the necessary steps to ensure that the standards evolve with modern technology and that it will prevent the employment of protocols, or even standards, that may limit the deployment and use of state of the art electronic services.

IDEA welcomes all efforts to strengthen standards work such as the Standards Institute proposal. It is concerned about the feasibility of such an Institute, unless it involves across-the-board participation of users and industries with in-depth knowledge of the technology.

IDEA believes, at this time, that the thinking on this subject is vague and therefore seeks further clarification.

As pointed out; IDEA perceives itself very much as a consultancy forum and it is, as such, eager to contribute to the standards process on this basis.

In any case IDEA assumes that any form of Institute or similar operation will liaise directly with a forum like IDEA through existing bodies.

#### 5. Testing

IDEA endorses the E.C. proposals for verification and certification of telecommunications equipment and even services.

IDEA particularly suggests guarding the integrity and quality of tests and tests organisations.

IDEA strongly supports the mutual agreement of test results throughout member States.

#### 6. CEPT

The Commission, IDEA believes, needs to be more informative about the role it expects the PTT federation CEPT to play. IDEA expresses the willingness to continue to liaise with the Telecommunications authority, through the EC Commission if need be.

## 7. Comments on Green Paper

IDEA recommends that comments made on the Green Paper by other interests be made available by the Commission.

### Conclusion

IDEA acknowledges with enthusiasm the significant policy-making advances made by the E.C. Commission as presented in the Green Paper. It looks forward to the implementation of a liberalised yet orderly telecommunications environment throughout Europe.

IDEA, once more, likes to take the opportunity to express its willingness to cooperate with the relevant parties in order to bring this about.

IDEA believes it can play a significant role in this activity, since it represents an operational EDI forum for both users and providers.

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INTUG Submission on the EEC Green Paper on the Development of the Common Market for Telecommunication Services and Equipment.

The International Telecommunications Users Group (INTUG)

1. INTUG represents internationally the interests of national, European and other international telecommunications user groups. Its full members are user associations which together include several thousand businesses and individuals. Its associate members are corporations which make significant use of international telecommunications. Most of its members operate in all the EEC and EFTA countries. The views expressed in this document are those of a working party specially chosen to be representative of the European members of the Group. This input is INTUG's response to the EEC's express wish to obtain a wide range of views from the community at large. INTUG hopes that, as it emanates from telecom-literate businessmen, it will balance the views which emerge from the administrations and manufacturers.

Introduction

2. INTUG welcomes the initiative taken by the Council in the various processes it has launched in the telecommunication field, and in particular in the preparation of the Green Paper. It is heartened that the Council is taking pains to encourage input to the debate by end users of the services in question. Although the emphasis of the Green Paper is on telecommunication markets and their supporting infrastructures, we should like to remind the Council that commerce and industry in general depend increasingly on information technology for their efficiency and competitiveness, and that telecommunications is integral to this for all sizes of company. Thus telecommunications directly affects the ability of businesses to create wealth, and hence support employment and the quality of life.
3. This being so, agreement must be reached among the member states that the interest of businesses as a whole should take precedence over the narrower interest of the telecommunication sector should any difference arise. In this context, INTUG offers the following comments on the ideas expressed in the Green Paper. For easy reference we discuss first of all the proposed positions raised in Figure 13 of Chapter 10 of the Green Paper under the heading "The Ingredients of a Solution."

Proposed Positions Introductory Remark

4. We understand that the first purpose of the document is to promote discussion, and think it succeeds in this by being discursive and by not taking positions in some areas.

However we should have much preferred a more user-orientated introduction stating that the general objective was to provide "the European user with a broad variety of telecommunication services on the most favourable terms" by means of the development of a strong infrastructure and of efficient services, etc, thus changing the emphasis. We believe that economic advantage is more directly influenced by the effective business use of telecommunications than by infrastructure.

#### Position A

5. Position A accepts monopoly of provision and operation of the network infrastructure, and suggests safeguards when a more liberal regime is chosen. Again we should have preferred a different emphasis. We believe that competition should now be the clear objective, with derogation for continuing monopoly in interim situations. Although it has not yet been tested in this particular context it is clear that the treaty of Rome does not favour monopoly, and it would be prudent not to perpetuate an undesirable situation. The scope of monopoly is not defined, and of course it is governments and not administrations which should be the arbiters. We should have liked to see some mention of the responsibilities which should accompany the "special rights" and to make it clear that one is contingent on the other.
6. The singling out of two-way satellite systems for mention at this juncture seems to us inappropriate. We welcome analysis but we do not agree with the proposal which seems to offer unfair and unnecessary protection to terrestrial systems and to be inimical to innovation. It also appears to limit choice and users value choice above all else. Furthermore it is not clear who would "closely monitor" such developments, and for what purpose.

#### Position B

7. Position B accepts the continuance of rights of administrations to monopoly provision of a limited number of basic services to safeguard public service goals. These goals must, of course, be defined and provided for by the nation concerned rather than by the administration. Certainly the administrations must be assured of the ability to finance their public and universal service obligations, but "exclusive provision" of the total network infrastructure may not be the only or best way to assure this. It seems clear that the continuance of monopoly will be challenged in future in many countries although it exists widely at present.
8. INTUG welcomes the proposal that exclusive provision must be narrowly construed and subject to review. The admonition against allowing monopoly to creep outwards by liberal

definition of reserved services is strongly supported. The identification of "voice telephone service" as the only obvious candidate to be "reserved" is also supported during transition, (but see paragraph 10 below). We should prefer the more specific phrase "public switched voice service."

9. As we see it even this "right" to reserve the public switched voice service to the administration carries a corresponding duty. This is the duty to provide an efficient and effective service. Peripheral activities and the provision of supplementary services should not be engaged in at the expense of the sound operation and development of the basic public service where monopoly is in force. Governments should insist that where administrations do offer supplementary services they earn the right by providing the best possible basic service. All new services should, of course, be introduced in the competitive sector.
10. There is, an equally important basic service which may be implied in the phrase "voice telephone service" but is not specifically mentioned in Position B. This is the supply of private leased circuits for use as highways for private networks. Business attaches great importance to this facility, wide and narrow band, digital and analogue, now and in the future. Competition in the supply of private circuits is desirable, but where monopoly exists there must be an obligation on the administration concerned to ensure an adequate service in this area. The Commission's attention is invited to the outmoded regulations which prevent the free interconnection of private circuits with public networks thereby inhibiting the optimum use of both.

#### Position C

11. We strongly welcome Position C, with its explicit support for the concept that supplementary, or enhanced, or value-added services should be open to competition. There is no tradition which supports monopoly supply of such services, originating as they do from a data-processing rather than a telecommunication background. Indeed, there is much to suggest that the monopoly suppliers do not perform well in this area. In any case, these services are often highly specialised and cater to a small market; standardisation and regulatory considerations, which administrations use to defend their monopoly positions, do not apply. Users have seen such services develop quickest and best in a competitive environment. If administrations are deemed to have earned the right to compete in this area there may be no harm in their doing so but there should be no obligation on them to compete, and where they do, there must be strict rules which prevent cross-subsidisation and the exploitation of the advantages attached to ownership of the

infrastructure. We have noticed that it is not in fact easy to ensure fair competition in these circumstances.

#### Position D

12. INTUG supports Position D in its recommendation to support strict standards for the basic network to maintain or enable inter-operability. It endorses the view expressed that such standards should be not only Community-wide but worldwide. It is important that such standards contribute to uniformity of access for users. However the strictness should not apply to non-basic service where requirements are different and inter-operability, for example, is a user option. A mandatory inter-operability here would unacceptably limit the range and use of services. In fact, no standard for a purely European service should be mandatory.
13. The most effective standards are minimal (to avoid inhibiting innovation and competition), unambiguous, timely, and quickly formed. Unhappily current arrangements for standard-setting do not respond well to these requirements. If, in creating a European Telecommunication Standards Institute, the Council can respond to these aims, it will deserve the gratitude of the user community.
14. We are uneasy about the suggestion elsewhere in the paper that the ETSI should be controlled by CEPT. It would be preferable for any such body to be independent, and whilst it might be necessary to call on the resources of the administrations to support detailed work, it would be wholly inappropriate for them to set objectives for the same reason that they should not do so in the regulatory field (Position G). We regard it as imperative that users and manufacturers should participate actively in decision making relating to the standard-setting process. EEC should consider funding user involvement to encourage it as much as possible.

#### Position E

15. Position E recommends that administrations should not unfairly restrict providers of competitive services and INTUG supports this stance. We oppose the application of special tariffs or conditions on suppliers of value-added services, as this distorts the price and hence the market for the service. They should pay the same price for service as anyone else.
16. To the extent that administrations themselves provide competitive services they should access the network on the same conditions and prices as others. In saying that the directive on Open Network Provision should be prepared in consultation with other parties concerned, in the framework of SOG-T, we are confident that the author intended to include user interests, but as users and

manufacturers are not currently represented in this forum we would have wished this to be a specific recommendation. If, because of the nature of SOG-T direct involvement presents problems, it would be necessary for all inputs, analyses, reports and decisions to be published for comment.

#### Position F

17. Position F promotes unrestricted provision of terminal equipment within and between Member states, and this is an objective dear to the hearts of users who have suffered inconvenience, inefficiency and unnecessary expense for years as a result of current restrictions. Users have no sympathy in any circumstances with the exclusion of the first telephone from this recommendation and would not wish to accept the implication that it is reasonable for any item of terminal equipment to be provided only by the administrations. Such a restriction of competition is, in the user's view, always unjustified. Competition in the provision of the first telephone already works well in UK and France. Also, true competition is only possible when the network terminates at a suitable standard interface point on the boundary of the customer's premises, and arrangements for this must be agreed Community-wide. A common physical connexion would be a great benefit.
18. INTUG congratulates the Council on its action to promote Community-wide type approval which will contribute to this objective, but draws attention to the benefits of self-verification to assist the process. INTUG joined ICC in drafting ICC document 373/15 which makes relevant recommendations (copy enclosed).
19. The reference in Position F to type approval of Receive Only Earth Stations is not understood. Such equipment is not normally linked to public networks and thus type approval requirements do not apply.
20. The whole process of type-approval could be greatly simplified, if not abandoned entirely, in the new digital environment, if public networks were designed to be self-protecting. The greatly enhanced intelligence available in them clearly makes this practicable, but there is no incentive for the administrations to promote the concept and so a directive would be necessary.

#### Position G

21. The proposal in Position G that regulatory and operational activities of administrations be separated is regarded by INTUG as a most fundamental and important factor in creating a basis for change at national level. It is thus most strongly supported. The continuance of monopoly as an

interim measure, where it occurs, is all the more reason to promote separation to ensure equitable use of resource by end users, and to permit change to occur when national objectives are appropriately positioned. It is of course essential that the regulatory function should be carried out by a totally independent body, and not by a separate division of the same entity. We should have liked to see tariff principles and standard-setting included in the list of regulatory activities, and would be happy to supply our proposals for a more detailed list on request.

#### Position H

22. Position H proposes a continuous review of the commercial activities of the administrations against the provisions of Articles 85, 86, and 90 of the Treaty and INTUG would welcome such an arrangement. It does not dissent from the Position I proposal to review providers in the competitive sector. An area where it is difficult to ensure fair competition is in the installation and maintenance of customer equipment and careful drafting will be necessary to bring this about.

#### Position J

23. Position J recommends full application of the Community's common commercial policy to telecommunications and this is supported. The proposal that the Community examine its position relative to the GATT is welcomed as evidence of an intention to be outward-looking in such matters.

#### Additional Points

24. It will be seen from the above that INTUG supports the positions taken in the Green Paper and that our comments are in clarification, amplification, and emphasis, rather than in opposition. There are however some relevant matters which we feel have not emerged from the positions identified in Table 13.

#### Tariff Principles

25. The helpful examination of Tariff Principles in the Paper did not give rise to a position in Table 13. INTUG is concerned that when public service tariffs are set by monopolies or near monopolies they should be fair to all parties. Artificially high tariffs are currently common. They are bad for commerce and industry and by inhibiting use may also be bad for the administrations which impose them. They often come about through a requirement to support loss-making postal services and to contribute large sums to central funds. We have no quarrel with the principle of universal service. We believe that cost-related tariffs can support this and unremunerative public services, such as

emergency services, and still provide a reasonable return for the service provider to encourage him to continue to invest in network development. We accept that if tariffs are cost related they cannot be harmonised throughout the Community but we do not see this as a problem.

26. Sound tariff principles should not discriminate between different uses of the same facility. The format and content of information are the concerns of the user and not of the network provider. In the approaching digital environment it will not be practicable to distinguish between data, text, image or voice in the network. It is illogical to charge volume tariffs for a fixed cost service such as leased circuits and INTUG sees such tariffs as threatening innovation and destructive of much useful past progress.

#### Cable TV - Satellite

27. We are concerned that the "close surveillance proposed of cable-TV and the relationship of satellite communications and its interface with the overall network" could be restrictively interpreted when it is implemented. The principle should be that where degradation of the network service experienced by the user will probably not occur then connection should be permitted, rather than prohibition of connection when degradation might occur. A presumption in favour of connection should be implemented, with each prohibition being justified. In this connection we should have wished the Green Paper to do more to open the door for these alternative technologies to emerge.

#### WATTC

28. We note the reference in the Green Paper to the desirability of EEC establishing a common position on WATTC. We would support this on the assumption that such a position would arise from the reasoning in the Green Paper, and would favour the competitive supply of value-added services. We realise however that obtaining consensus on such a matter will not be easy in the time available. It is apparent that member administrations with the exception of UK ignored the position on VANS recommended in the Green Paper when attending PC/WATTC, and urgent action by EEC is required if this situation is to be remedied before November 1988.

#### Technical Training

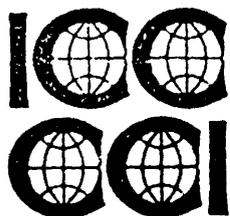
29. There is no mention in the Green Paper of the need for Member Countries to promote and ensure an adequate supply of qualified engineers and managers. The ability of all business organisations as well as of the administrations to take full advantage of the benefits of information technology can be seriously impeded by a shortage of such people.

Conclusion

30. INTUG congratulates the Council on the rapid progress it has made with telecommunication matters in the past few years. In particular it identifies with recognition of the need for increased competition, plans to bring about a single European market, plans to promote broadband facilities/ISDN throughout Europe, and the harmonisation of type approval.
31. It believes the Green Paper is fulfilling its purposes of provoking wide discussion of the issues. It hopes that the discussion will result in a positive document committing to firm plans and directions for the future. It welcomes the setting of a target date for progress and believes 1992 is realistic in the context. It would like to think that the Council will do all in its power to encourage the involvement of user representatives in its own deliberations, and will similarly encourage its member countries to do likewise. If the Council's staff wishes INTUG's opinion on matters raised in the contributions of other organisations or individuals, or amplification of any of the points made above we should be most happy to cooperate.

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London  
October 1987



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02.12.1987 - CX/df

**INTERNATIONAL CHAMBER OF COMMERCE**  
**COMMENTS ON THE GREEN PAPER ON THE DEVELOPMENT OF THE COMMON MARKET FOR**  
**TELECOMMUNICATIONS SERVICES AND EQUIPMENT ("GREEN PAPER").**

**I. INTRODUCTION**

The International Chamber of Commerce ("ICC"), the world business organisation, set up in 1981 its Commission on Computing, Telecommunications and Information Policies (CTIP) to represent and make known the interests of its membership on information technology and telecommunication related matters. Attached to this body is a Working Party on Telecommunications.

Through the CTIP Commission and its Working Party on Telecommunications, the ICC is the spokesman for business worldwide in the field of information technology, and services. Its geographical spread combined with its membership base (users and suppliers of all sizes) makes it a unique body. Its membership is aware that the convergence of computing and telecommunications technologies into a single discipline, information technology, has enormous potential and impact on business development. The development and application of information technology and particularly telecommunications can be fostered or hindered both with and across national boundaries by the actions of governments and regulators.

Over the recent months, the CTIP delegates have shown considerable interest in the Green Paper on the Development of the Common Market for Telecommunications Services Equipment issued by the Commission of the European Communities. Having received a copy of the document we were grateful for the opportunity to meet with Commission representatives on 8th September 1987 and now wish to confirm the tenor of those conversations by the following comments on the Green Paper.

The strong response to the Green Paper within the ICC is one of support for a very welcome document whose approach to telecommunications policy in the EEC is mainly positive and encouraging. Telecommunication networks can no longer be considered as merely a convenience, but as a vital business tool. As the European Commission has clearly recognised it will be impossible for industry and commerce to thrive without a satisfactory telecommunications environment.

The Green Paper has stimulated wide interest and allayed many fears over its presumed content. It provides an excellent framework for debate. Of course, the Green Paper cannot be all things to all people and so several points will need further clarification and discussion, notably with regard to tariff principles and standards.

For convenience the comments which follow relate to the proposed positions contained in Fig. 13 of the Green Paper.

## II. THE POSITIVE ASPECTS

### A) EXCLUSIVE PROVISION OF THE NETWORK INFRASTRUCTURE

The EC Commission recognises the right of Member States to choose the organisational scheme for provision of network infrastructure that best suits their own needs, provided that the integrity of the network is maintained. The EC Commission notes that many Member States will want to maintain exclusive provision of the network. The ICC accepts this view provided that network infrastructure is narrowly defined and that the opportunity for competition in the infrastructure is not foreclosed should it provide a better means of completing the internal market.

The arguments for exclusive provision and operation of the network infrastructure may appear strong at this time. However the EC Commission has rightly recognised telecommunications technology in the areas of adjacent infrastructure (satellite mobile radio and cable TV) are advancing so rapidly that the question of competitive provision needs further analysis and that under certain circumstances such competitive provision may be desirable. It is our view that the Green Paper does not go far enough on this latter point. Particularly with respect to two-way satellite systems. The unique properties of such systems could be of particular benefit at the Community-wide level if exploited fully and should not be subject to artificial regulatory constraints.

In this context the Commission's frequent reference to the need to safeguard the financial viability of Telecommunications Administrations is understandable ; telecommunications between Member States are one of the most profitable areas for Administrations. On the other hand telecommunications costs are an important part of business expenditure and the reaching of a single European market will not be facilitated by distortions in national tariff approaches. While recognising the arguments for maintaining financially viable Telecommunications Administrations, this should not in any event be at the expense of business as a whole.

### B) PROVISION OF BASIC SERVICES

The EC Commission is to be congratulated for not perpetuating the fruitless debate on technology-based boundaries (basic/value added, etc.).

The position that exclusive provision of telecom services should be narrowly defined and subject to periodic review is correct. This would be a major and essential step forward providing such reviews do not expand the range of those services reserved to the monopoly.

The Green Paper suggests that voice telephone service is the only obvious candidate for exclusive provision. We can understand this viewpoint providing that it relates only to public switched telephone service. Furthermore there should be flexibility for those countries that have opened or will decide to open voice telephony to competition. The ICC would not support a set-back to such decisions. However exclusive provision should not include private voice networks or integrated services where voice is but one element. In this latter regard we agree with the Witte Commission report (Federal Republic of Germany) which states :

"Telephone service is understood as meaning exclusively voice communication. The storage or conversion of signals (e.g. voice mail) and the integration of speech into text, image or data communication are excluded from the monopoly".

It is the ICC's view that there are no other legitimate candidates than voice telephony for such exclusive provision. To extend the list of services reserved for the exclusive provision of Administrations would be to seriously weaken the Green Paper proposals. The EC Commission are urged to make a firm stand on this point.

The Green Paper notes that in some Member States the following services are accepted as "new basic services" : packet switched data networks ; circuit switched data network ; teletex ; electronic mail and videotext. While it does not say that they should be provided exclusively by Administrations, the EC Commission indicates that these services should be available universally at the Community level. We believe that the development of such services by Administrations has been far from satisfactory and that competition will foster rather than hinder the development of the up-to-date Europe-wide services which are needed by business.

An Administration that wants to go beyond voice telephony to include other services should be required to demonstrate that benefits for users are not likely to result from open competition. In order to strengthen the European market comparable definitions of reserved services among Member States will be necessary. Monopoly protection should be the exception, for without some kind of guarantee that a newly offered service will not subsequently be reclassified as a reserved service, companies will be reluctant to offer them. The importance of limiting exclusive provision will be even clearer when in later years, moves into an ISDN environment will require the resolution of how to distinguish voice services.

C) COMPETITIVE SERVICES

The ICC endorses the EC Commission's intention to remove transborder barriers on an European level and its position on the freedom to provide cross-border services. Providers will nevertheless need to have access to the underlying transmission services on equal terms and conditions with the Telecommunications Administrations otherwise such cross-border freedom will not help.

The Green Paper refers to separate tariff offerings for "bearer" and "value added" components. It will be vital to ensure that Administrations and potential competitors in the value added area would be offered the same tariffs for the bearer components.

If a policy is established to monitor compliance its implementation and enforcement by use of various EEC instruments should be clarified. What will be the method of redress available to industry and users when such a policy is not applied on a national level ? Will procedures be streamlined for test cases ? The ICC would welcome some clarification regarding the appropriate methods of enforcement which are to be introduced.

EEC competition policy will play a most important role here and its vigorous application will be necessary to protect against improper cross-subsidisation and other unfair trade practices by Telecommunications Administrations.

D) STANDARDS

Community-wide inter-operability is a laudable aim and standards are a necessary element in achieving this goal. However, as the Commission is aware standards can stifle as well as foster progress. It must be recognised also that standards can be and indeed are used as a trade barrier. The users are inevitably the sufferers and are certainly ill-served when this occurs. Examples of misuse include the mandatory application or premature establishment of standards. We would like to draw attention to the enclosed CTIP Position paper N°9 on the development and implementation of telecommunication standards.

The Green Paper puts forward a proposal to create a European Standards Institute. The ICC would appreciate future clarification of the proposed role and aims of the Institute as the Green Paper is not sufficiently explicit on this point.

At first sight the idea of a European Standards Institute appears attractive. It could be a good way to ensure direct user and industry participation in the development of standards. However, we are anxious to avoid duplication with existing standards body and would not wish the Institute to become an additional administrative hurdle for business. Furthermore, the Institute should not be used to perpetuate the existing situation where users are rarely consulted or given the opportunity to comment (we take for example the Recommendation on ISDN).

There is also a need for users/industry to play an equal role in developing those standards which may be created outside the framework of the Standards Institute, and to be allowed to participate at every stage of the standards setting process. It is necessary to have a balanced view of business and Administration requirements. The ICC is an ideal participant and we would be happy to propose our assistance as the spokesman for world business to provide industry/user participation and input.

E. OPEN NETWORK PROVISION

The EC Commission position on network infrastructure indicates a need to establish common principles regarding the general conditions for access to the network infrastructure (Open Network Provision). The EC Commission intends to develop directives that will cover technical interfaces, tariff principles (unbundling of bearer and value-added capabilities), and conditions of use. It will seek acceptance by the Administrations of clear obligations to interconnect with and provide access for transfrontier providers.

The ICC endorses the need for principles regarding open and equal access conditions to network infrastructure and the obligation for Administrations to interconnect with and provide access for transfrontier providers.

If the process of developing these access conditions were to be independent from the Administrations then a truly Open Network Provision could indeed become a reality. If however, as appears probable, the Administrations would have a major, if not entirely dominant, role in the process, then the network seems more likely to remain closed.

Moreover, with regard to important new services new developing such as Managed Data Network Systems (MDNS) we foresee potential difficulties in relation to fair, open and equal access to network infrastructures for competitive service providers unless a proper balance is achieved in determining and implementing ONP provisions.

The conditions for the use of the network infrastructure must not leave room for anti-competitive behaviour by Administrations from which there would be little or no protection under the Community's competition rules. Under these circumstances it seems extremely doubtful whether the benefits of true competition could be realised.

We, therefore, emphasize the need for user participation in the definition of ONP, and would be in a position to assist the Commission in this connection.

F) TERMINAL EQUIPMENT

A progressive full opening of the terminal market to competition is happening already and is due in no small measure to the action of the EC Commission under the Community competition rules. The ICC fully endorses open competition in all equipment located on customer premises including the first telephone and digital as well as analogue network termination equipment.

G) SEPARATION OF REGULATORY AND OPERATIONAL FUNCTIONS

The EC Commission sees this proposal as a fundamental precondition for the establishment of a competitive market and the participation of Administrations in this market.

It would appear that the proposal is to separate the regulatory function from Administrations in which case the proposal is warmly applauded and

supported by business. Such separation is critical to having a sound telecommunications policy and regulatory powers. However, it could be interpreted to mean simply a separation of the regulatory and operational functions within an Administration which in our view would not suffice.

In calling for a clear separation of regulatory and operational functions the Commission quite rightly pointed out that Administrations cannot continue to be both referee and player. Business must, as a rule, be provided not only with equality in opportunities but also equality in obtaining redress. The Community should ensure that national bodies created to ensure compliance and enforcement of such separation should all be set up on similar lines, be totally independent have a full spectrum of powers and responsibilities and be open to public input and review.

#### H) and I) REVIEW OF ADMINISTRATIONS AND PRIVATE PROVIDERS

Strict and equitable application of Community competition rules will be essential if the Green Paper proposals are to be effective. In this regard the national regulatory bodies will have an important role to play and this further emphasises the need for agreement within the Community on a common approach to the role and structure of these bodies.

#### J) COMMON COMMERCIAL POLICY

In the context of this proposal the ICC views with concern the draft Regulations for international telecommunications services prepared by the Preparatory Committee for the World Administrative Telegraph and Telephone Conference (PC-WATTC 88). Representation on this Committee from Member States was mainly from Telecommunications Administrations. The Regulations as drafted are, in our view, unacceptably restrictive, and conflict both with the Green Paper proposals and with the liberal regulatory trend already shown in some of the Member States. It would also seem that as things stand the WATTC process could prejudice the discussions on telecommunications services which we hope and expect will be included in the Uruguay round of the GATT.

The Commission is urged to alert the Member States to the unsatisfactory nature of the draft Regulations which could, if ratified, place unreasonable constraints on the development of telecommunications related services and also on international business.

### III. OTHER COMMENTS

#### A) TARIFFS

A major weakness of the Green Paper in our view is that it does not adequately address the question of tariff principles on which so much depends for the telecommunications sector.

The use of telecommunication tariffs has varying political and investment implications in different countries. However, as we have already stressed, telecommunications networks can no longer be considered merely a

convenience. Business relies on their effective and efficient operation in order to develop in the same way as raw materials are required for the manufacture of goods. Companies will invest in an area where they can get facilities and plan for costs, but the reverse is also true. Tariffs constitute in many cases a barrier to such investment through a lack of transparency. The importance of tariff harmonisation should therefore be more clearly referred to in the EC Commission's proposal as an issue of priority. A distortion of tariffs across European boundaries will not encourage companies to invest if they cannot ascertain potential costs. The ICC believes that companies need to have a reliable costs and tariffs plan across Europe in order to reap greater benefits from technological advances in a European dimension.

The EC Commission believes that tariffs should follow overall cost trends and that a certain amount of rebalancing of tariffs will be inevitable. It states that a fair trade-off between cost orientation and the aim of universal service on reasonably the same terms for all will have to be developed. It would like to see a gradual emergence of a European tariff zone, as well as a higher transparency and convergence of accounting rates. In our opinion, this will require a consensus on the general tariff principles for access by users and providers of competitive services including agreement in the degree of unbundling of tariffs required for fair access, and general principles for the provision of leased lines.

Although the EC Commission has the power to investigate and terminate abuses, it seems content to leave it to the Administrations whether to apply usage-sensitive, flat rate, or a mixture of both tariffs for leased lines.

It is interesting to note that the European Commission itself views usage-sensitive tariffs as a deterrent, at least in a voice telephony context. This, in our view, would indeed be the inevitable effect for value added services as well if such methods were to be applied to the basic infrastructure.

We reaffirm our belief in the importance of cost-based pricing and flat rate tariffs for leased circuits. Usage-sensitive tariffs are not compatible with cost-based pricing. We take this opportunity to remind the Commission of our views on leased lines as expression our position paper N° 4 "International Private Leased Circuits - The Business User's View".

B) PUBLIC PROCUREMENT

A fully integrated, competitive European market for telecommunications services and equipment would be incomplete without reference to network equipment in the Commission's proposed positions. As network equipment is the foundation for the telecommunications network infrastructure over which services travel and to which terminal equipment is attached, lack of competition in this important market segment has direct implications for telecommunications services and for terminal equipment.

In its regulatory framework, the Commission recognizes the importance of creating a fully common internal market for network equipment in order for European suppliers to achieve the necessary economies of scale. We understand that this position is supported by UNICE's statement on "A Telecommunications Policy for Europe".

The Green Paper states that "the development of a common market in network equipment must therefore go hand in hand with a substantial increase in the transparency of procurement procedures of the Telecommunications Administrations, in order to ensure an open market in telecommunications equipment".

In this area the EC Commission has indicated its wish to increase transparency of procurement practices ; progress rapidly towards common specifications for network equipment and their use in public procurement; have close surveillance to guard against discrimination ; and require the full application of the procurement recommendation. The ICC agrees and supports these aims.

The ICC notes with pleasure the EC Commission's aim to replace the current Recommendation 84/550 by a Council Directive and supports prompt EC Commission action on this. We also support the extension of the public procurement Directive (77/62/EEC) to cover telecommunications. In this context we consider it appropriate that the GATT's government procurement code should be extended to include telecommunications.

C) THE GLOBAL NATURE OF TELECOMMUNICATIONS

The Green Paper's approach to non-EEC trading partners is encouraging as the ICC believes that business activities are global in nature. Unrestricted access to an interconnection with European services by trading partners will be essential. It is of great importance that the competitive environment to be established in the EEC should not be limited to the Member States and that no artificial barriers to trade are created.

The ICC recognises the intensified co-operation with the EFTA countries since the Luxembourg Declaration of 1984 and ventures to hope that a co-operation of this nature can be further intensified and extended to other trading partners.

IV. CONCLUSION

The CTIP Commission has formulated position papers on topics pertinent to the Green Paper (ISDN, standards, liberalisation of telecommunication services, homologation of equipment attached to telecommunications networks and private leased circuits) and is in the process of finalising a future paper on worldwide information technology without barriers. It is convinced of the desirability for greater industry/user involvement on the proposals contained in the Green Paper notably with regard to the Standards Institute, tariffs and the promotion of competitive provisions. The ICC would be happy to put its expertise at the EC Commission's disposal on an ongoing basis.

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## ISA submission on the EEC Green Paper on the Development of the Common Market for Telecommunications Services and Equipment.

The Institute of Satellite Applications (ISA)

ISA is an independent international foundation based in Amsterdam, The Netherlands. ISA has as its main objective:

- To promote, in the broadest sense, the peaceful uses of outer space, by implementing the scientific and research activities into their practical applications.

ISA intends to reach this objective by, a.o. :

- conducting scientific research in the field of space- and telecommunication law.

In this capacity ISA welcomes the initiatives of the Commission of the European Communities as expressed in the "Green Paper on the development of the common market for telecommunications services and equipment."

With the Green Paper, we are of the opinion 'that the overriding aim is to develop the conditions for the market to provide European users with a greater variety of telecommunications services, of better quality and at lower cost, affording Europe the full internal and external benefits of a strong telecommunications sector.'

We also agree that the timing is right and there is 'the genuine possibility of finding agreement for broad common regulatory aims'.

As said in the Appendices to the Green Paper: 'European geography, with relatively small distances between major centres of population, is not a natural candidate for the extensive application of satellite communications'.

The existing European regulatory structures, however, may make it one of the most promising candidates for international networking, where satellites could be used to 'bypass' the major regulatory obstacles. The aims of the regulatory changes in the European countries should be to change this situation so that satellite communications can be the natural choice for users who are attracted to the characteristic advantages of satellite communications.

It is not a secret that the slow development of satellite communications in Europe is to a large extent the result of the existing regulatory structures. We are of the opinion that regulatory changes could have a stimulating effect on the usage of the proliferating communications satellite systems in Europe. The emergence of a 'flexible high-capacity' infrastructure and of new services and terminal equipment and their availability on even the remotest places, could bring closer the objectives of programmes like RACE, ESPRIT and STAR. Further analyses and study of the effects of different scenarios are required but fundamental decisions should be taken relatively soon. Of special concern here should be the changes in the market for international communications and emerging intermodal competition of other facilities and providers. Furthermore, the interests of the space industry and the interests of users, worldwide, should be taken into account.

In response to the proposals of the Commission and their preceding analyses, ISA has taken on the invitation to submit comments to the Commission and hopes they will spur further discussion.

These comments are meant as a reaction on the general proposals on international communications and in particular on the proposals concerning satellite communications.

It may be concluded from the following that ISA welcomes the atmosphere and supports the positions of the Green Paper. Our comments are to emphasize and clarify, more than to oppose. In our consideration and conclusion we add some, in our view, relevant matters.

CONSIDERING:

1. That the characteristics of satellite technology could cost-effectively enlarge choice for the user and provide him with new opportunities, irrespective of his geographical location, to share in the benefits of information and communication dependent industries.

2. That satellites can form a temporarily backbone for the development of ISDN infrastructure and therefore could stimulate the early implementation and development of this network. Terrestrial tails to a satellite-based ISDN infrastructure could develop before the possibly more economical fibre infrastructure is realised.

Satellite capacity will for the next decades be the necessary backup for high speed terrestrial networks and will give the operators of these networks the flexibility needed to act according to the market forces on new locations.

3. That satellite communications can stimulate the early development of new services since satellites can in many instances function as 'step up' technology for new services and new entrants in the European markets. The satellite distributed television channels are illustrating this. And satellites can stimulate the early development of ISDN services, also in regions where networks will not be of ISDN quality for the foreseeable future. CAD/CAM applications, new multipoint direct access services such as data base distribution and videoconferencing will be made feasible without the direct need for extensive terrestrial infrastructures and at reasonable costs for medium and small service providers.

4. That satellite systems and capacity will proliferate in the very near future while demand for public trunk connections is not growing at a substantial level. The move of satellite providers to a strategy for specialised services like television and data distribution reflects fundamental changes in the market but could cause again oversupply in the longer term. The governments and industries of Europe have made substantial investments in satellite technology and capitalisation of these investment could be in the first place realised by greater use for the benefit of all parties.

5. That the Telecommunications Administrations have responsibility for marketing the transponder capacity and determining the rates, terms and conditions of service that originates from their territory, and that these vary from country to country. And that the pricing of the separate parts of a satellite link is not transparent.

6. That the existing international treaties limit the access to satellite systems to these Administrations which have often conflicting interests when marketing facilities to end users. That end users are limited in operating and owning satellite earth stations and in obtaining cost based access to satellite communications facilities.

7. That the ECS transponder lease contracts contain no restrictions to domestic services but that international services are limited to the following criteria: 'The dedicated capacity may only be used for distribution of TV programmes, unidirectional video transmissions, TV-like programmes and distribution of sound programmes and/or data channels associated with, and that are an integral part of, any of the foregoing programmes or transmissions.'

8. That a downlink agreement has to be signed for reception of the signal in each additional country outside the lessee's country, also when the usage remains the same.

9. That television applications are by contract still 'non primary' services and preemptible by the Eutelsat 'main mission' (Public international telephony, satellite multiservices, EBU service and occasional use services) even now television distribution is the most successful service.

10. That satellite distribution of TV programmes and data are converging and that the communication traffic pattern of multi-point data distribution is closely related to that of broadcasting and therefore arguably regulated by rules on freedom of information, freedom of speech, and intellectual property rights.

11. That two-way satellite communication for high speed data communications has a natural disadvantage compared to terrestrial communications because of the so called 'echo' time difference. And that therefore satellite technology will face strong competition of terrestrial networks on parallel routes, as soon as these are digitally upgraded. The threat of loss of traffic to a deregulated satellite communications market by the Telecommunications Administrations will be limited.

12. That prohibition of connection to the public switched network of high speed satellite links could prevent 'creamskimming', especially when combined with reasonable limits to resale and reuse for high speed satellite links.

13. That complete deregulation of the VSAT market is in the interest of all parties concerned, could generate considerable new terrestrial traffic and that 64 Kbps should only be kept as a limit as long as it is not jeopardizing the emergence of new desirable services.

14. That leased satellite capacity on Eutelsat II satellites may be marketed in the UK by other Eutelsat members to promote access of new providers to satellite capacity, but that similar provisions are not made for other countries.

## WE CONCLUDE

That satellite technology has very much to offer to European users and the European telecommunications industry. Wide dissemination of services and accelerated development of high speed connections for telecommunications are only two applications of the unique characteristics of satellite technology.

To enjoy all potential benefits of satellite communications, utilisation of the proliferating capacity should be stimulated. Therefore marketing structures need to be changed and new, more flexible, service offerings are required. As a first step, liberalisation of receive-only earth stations and permission of limited ancillary use of domestic (and private) satellite systems for transborder services between the various countries within the European region, in combination with choice for the user to lease capacity from different providers, could create incentives for the Telecommunications Administrations to price satellite capacity (up- and downlinks), realistically and competitively, and to introduce new services and minimize regulatory obstacles.

## COMMENTS ON THE PROPOSED POSITIONS A,B,C,D,E and F:

A. We agree that the long term integrity of the general network should be safeguarded. We should like to emphasize that continued exclusive provision or special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure needs a very well defined set of special obligations and duties.

We welcome further analyses of the competitive offering of two-way satellite communications systems but only where they form part of the public infrastructure. We agree that this competition should be closely monitored but it has to be clear in advance why this monitoring is done and what the impact could be on the operator of the monitored system. Preferably the monitoring should be the task of an independent authority. Concerning VSAT systems we agree that there are very few reasons to believe that they will have considerable impact on the financial viability of the main provider(s) while they could be very important in the development of European wide services.

The competitive offering of two-way satellite communications through separate systems is already allowed on a 'case-to-case

basis', where impact on the financial viability of the main provider(s) is not substantial, therefore we agree with the sentence in the appendices (p.129) that 'a common interpretation of the "economic harm" provisions contained in Articles XIV and XVI of the INTELSAT and EUTELSAT Conventions as regards their impact on satellite communications in the community will be required.'

There is, however, a considerable difference in the international position of EUTELSAT compared to that of INTELSAT in respect to the offering of international services. All possible effects of liberalisation of satellite communications on the public tasks of these organisations should be taken into account

Here is independent judging needed as well. In addition, clear definitions on the 'specialised services', not needing the 'economic harm' test, have to be established very soon.

At the same time, EUTELSAT should get the opportunity to have access to its end user market, especially in service areas where Telecommunications Administrations have no particular interest in implementing and marketing satellite communications.

Since competition is coming from all sides and the European landscape is changing fast, we think that a thorough review of the EUTELSAT Agreement and the position the organisation should hold in the changing telecommunications environment is essential to its future and the future of satellite communications in Europe. At the same time the effects of the European wide offering of services through domestic satellite systems should be considered.

B. Everything except public voice telephony, should be offered on a competitive basis this should also concern satellite communications.

C. All other services connected to and meant for the general public should be considered end user services and be provided in competition. When satellite communications networks are part of the (inter-)national infrastructure or are connected to the public switched telephone network, only closely monitored offering of competitive two-way satellite communications should be allowed. Data distribution on the broadcasting pattern is very close to broadcasting and will also technically be close since there is a tendency to use spare capacity on television signals for the distribution of data. This is very much related to freedom of speech and freedom of information. The cable distribution of these data services using addressable decoders will be possibly connected with the public switched network but it will need extremely high investments to adapt the existing cable networks to the high standards needed for interactive services. Competition on this level should be closely monitored

but also stimulated since very interesting new services could develop out of these new combinations.

D. Standards are needed we agree, but should be very well timed and not be to protect markets but only on basis of common sense.

E. This is one of the most sensitive areas since regulations concerning interconnection and access are decisive for the success of every privatisation or liberalisation of telecommunications structures. To prevent the long legal battles on these regulations they should be extremely clear and the proposed directive should therefore contain provisions that regular updates by way of regulation or decision could be implemented easily. It should also be clear and agreed on what the basic objectives are of the regulations. We respect the courage of the Commission in this and hope that this will also contain access, tariffs and interconnect provisions for satellite communications in Europe.

F. Ideally, the primary purpose of certification should be to ensure protection of the public network and network personnel from possible harm caused by the connection of the customer premises equipment. All other criteria should primarily be left to the market place. Therefore, type approval should only be considered when connection of ROES to the public network is allowed.

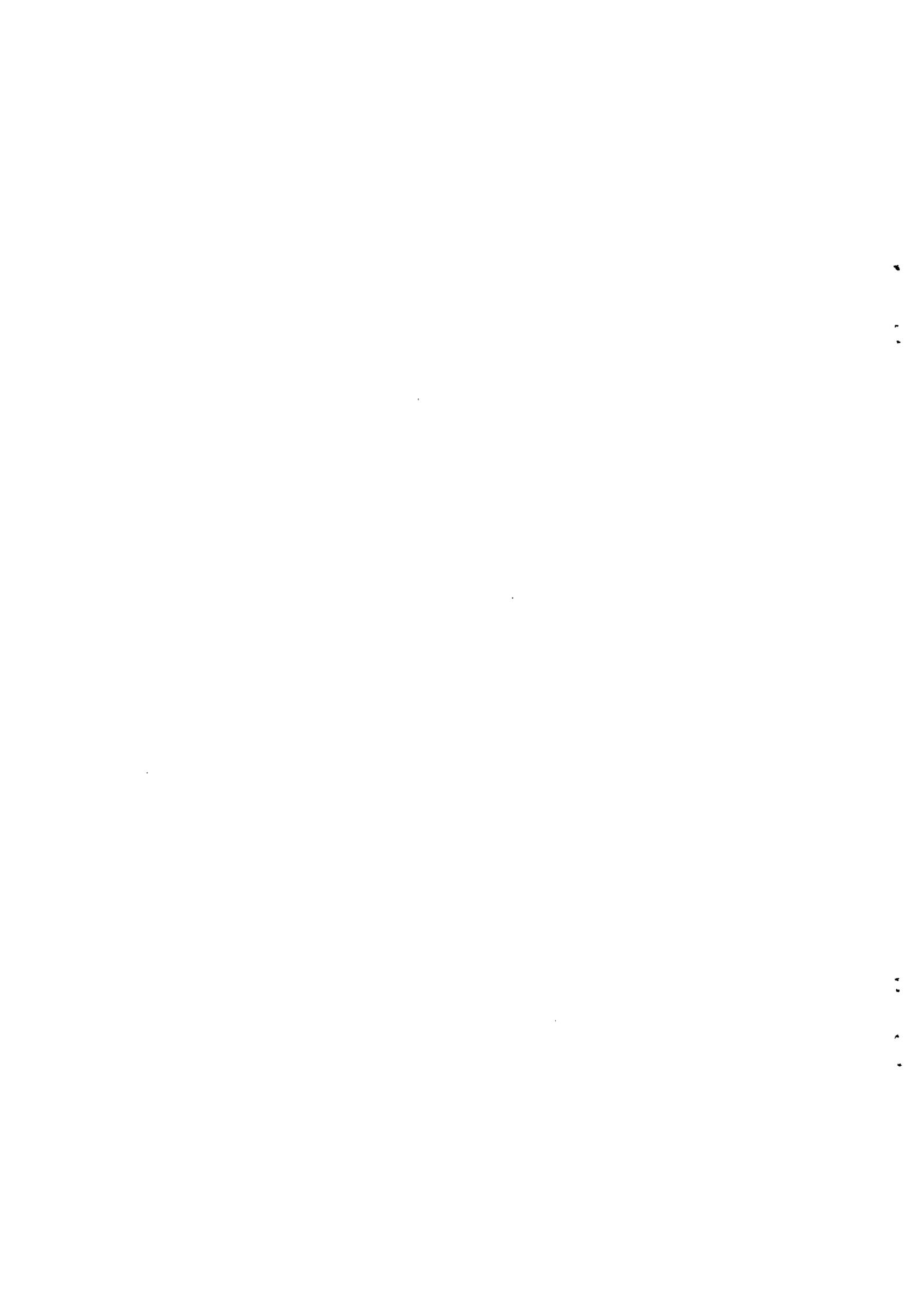
Furthermore, it should not be required that satellite receiving facilities be licensed, but one should retain the possibility of a simplified optional licensing procedure for those receive-only satellite earth station owners seeking interference protection from terrestrial transmitters through a frequency coordination process. Protection from interference resulting from transmitting facilities is not afforded to owners of unlicensed receive-only earth stations and such owners waive any rights of objection to existing or future interference. Consequently, it is not necessary to obtain approval to install and operate a receive-only earth station.

Every earth station operator is, however, required to comply with all national and international copyright laws and communications regulations that prohibit unauthorised reception and use of communications (Art. 17 International Radio Regulations)

Institute of Satellite Applications

Amsterdam  
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## PROJET D'AVIS du CNPF sur le LIVRE de la C C E

La Commission des Communautés Européennes ( C C E ) a publié le 30 juin 1987 un Livre Vert sur le développement du marché commun des services et équipements des télécommunications.

Ce document vise à lancer un débat et à susciter des commentaires de la part des acteurs européens afin de favoriser le développement des conditions dans lesquelles le marché offrira aux utilisateurs européens une plus grande variété de services de télécommunications, de meilleure qualité et à un coût moindre, permettant à l'Europe de recueillir, tant à l'intérieur qu'à l'extérieur, les pleins bénéfices d'un secteur des télécommunications puissant.

Le Conseil National du Patronat Français ( CNPF ) tient à exprimer son accord global sur les positions proposées par la CCE en les accompagnant de quelques commentaires.

Tout d'abord il paraît souhaitable au CNPF d'utiliser désormais d'une manière générale le terme " d'entreprise de télécommunications ". Par entreprise de télécommunications, le CNPF propose d'entendre toute société autorisée par un Etat Membre à établir un réseau de télécommunications ouvert à des tiers, ou à ouvrir aux tiers un réseau qu'elle a établi. De par leur caractère industriel et commercial les administrations des télécommunications sont couvertes par cette appellation qui offre l'avantage de mieux identifier la nature du secteur des télécommunications.

Dans ces conditions la position A- alinéa 1 devrait s'appliquer à celles des entreprises de télécommunications qui ont dans les Etats Membres à remplir les obligations d'installation et de disponibilité d'un réseau général. Il serait utile de préciser qu'un réseau général doit dans l'Etat Membre où il est autorisé couvrir l'ensemble du territoire, assurer les liaisons internationales, et répondre aux impératifs de Défense, aux besoins de communication des Pouvoirs Publics et des usages domestiques et professionnels. Il assure également l'accès de tous au service téléphonique fixe, et son exploitation contribue au développement de la recherche et de la formation dans le secteur des télécommunications

La position A- alinéa 3 mériterait quant à elle d'être complétée afin d'afficher l'objectif de promouvoir des structures commerciales de fourniture de services à l'échelle européenne, quelle que soit l'infrastructure de réseau utilisée à cette fin. Une telle coordination apporterait, aux utilisateurs professionnels notamment, simplification et efficacité pour la satisfaction de leurs besoins de raccordements et de liaisons.

Les principes énoncés dans la position B quant aux services de base réservés mériteraient d'une part une précision, d'autre part une observation.

Par services de base, il serait sans doute utile de préciser qu'il s'agit de services dont l'objet principal est de transmettre et d'acheminer des signaux sans leur faire subir d'autres traitements que ceux nécessaires à leur transmission et à leur acheminement.

D'autre part l'interprétation étroite qu'il convient de donner au principe de prestation exclusive par certaines entreprises de télécommunications pourrait également tenir compte de seuils de diffusion internationale qui font qu'au delà du service téléphonique vocal, le service télex et le service de transmission de données par commutation de paquets pourraient être susceptibles d'être retenus dans une liste restrictive.

Pour le développement des services concurrentiels visés dans la position C, il pourrait être utile d'affirmer la neutralité de l'exploitant par rapport à l'identité des utilisateurs de liaisons louées, sans conditions d'activités associées, complémentaires, analogues ou connexes. Pour les services offerts sur les réseaux ouverts à des tiers, il paraîtrait légitime qu'en fonction de leurs tailles soient imposées des conditions relatives à leur apport en valeur ajoutée par rapport à un simple transport, à leur conformité ou leur mise en conformité avec les normes évoquées dans la proposition D et à leurs contributions au développement des réseaux généraux. Il faut en effet veiller à la cohérence globale des positions A, B et C.

En matière de normalisation, objet de la position D, le CNPF soutient le projet de la création d'un Institut Européen de Normalisation sous réserve qu'il accélère les travaux de la CEPT et du CEN-CENELEC, qu'il permette une concertation accrue avec les utilisateurs et les constructeurs, et qu'il contribue à une meilleure perception des intérêts industriels européens. Ce dernier objectif devrait être également pris en compte dans la position F.

Il semble naturel au CNPF de considérer dans la position E- alinéa 3 que les utilisateurs professionnels sont compris dans les parties concernées par la concertation sur l'Open Network Provision ( ONP ). En effet cette concertation devrait notamment porter sur les principes de tarification du secteur concurrentiel en ce qui concerne la prestation de services.

La proposition G vise la séparation des activités de réglementation et d'exploitation des actuelles administrations de télécommunications. Le CNPF considère que les activités réglementaires devraient inclure les principes tarifaires d'utilisation des réseaux car les transformations du secteur des télécommunications lui paraissent devoir obligatoirement être guidées par des considérations économiques et sociales.

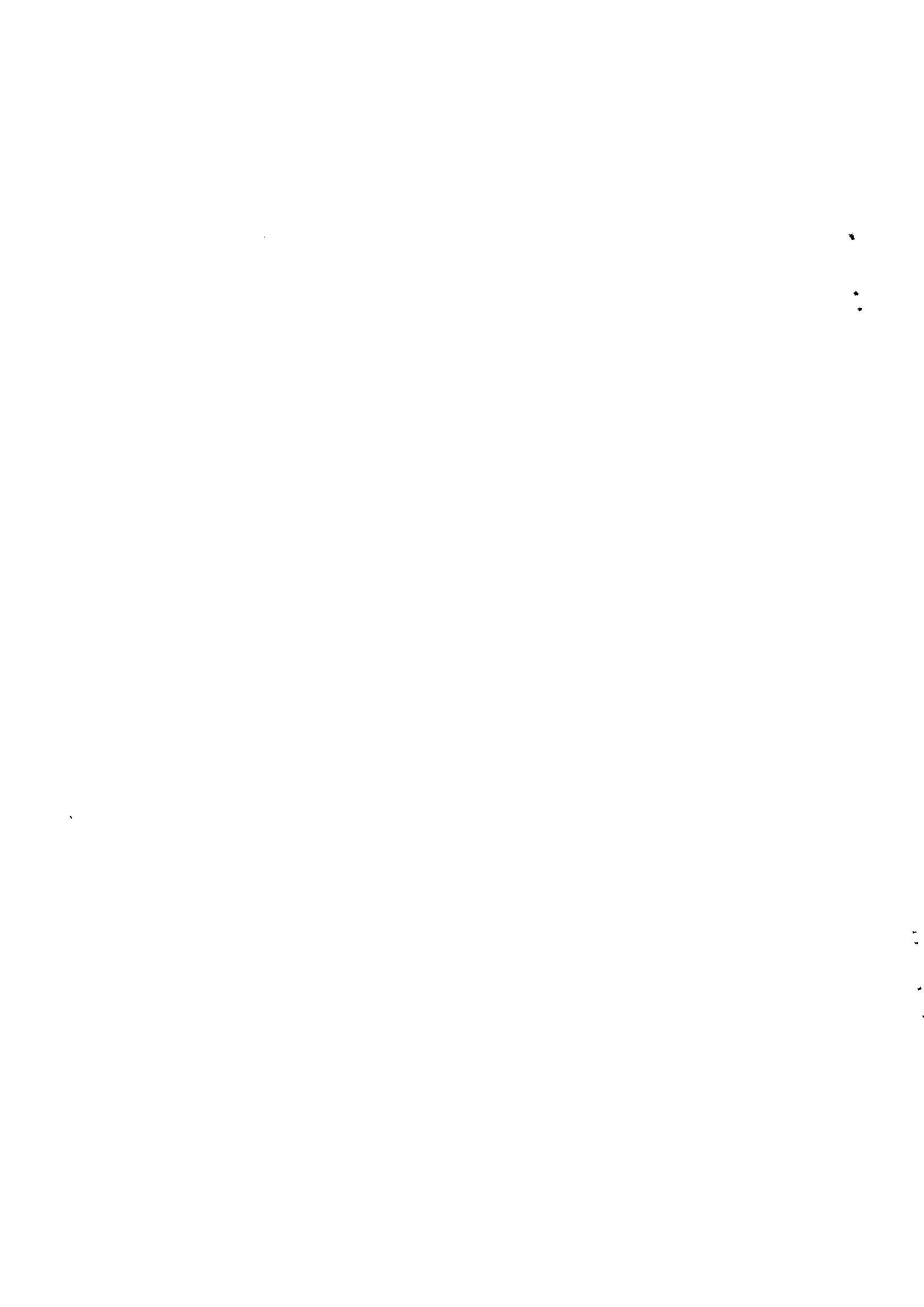
Pour toutes les entreprises de télécommunications ( propositions H et I ), le droit communautaire commercial devrait s'appliquer à la fabrication, l'installation, la maintenance d'équipements et à la fourniture de services. Ceci vise notamment le contrôle des positions dominantes et des intégrations verticales. Simultanément, afin de favoriser la création d'entreprises d'envergure mondiale dans les domaines des équipements et des services, il serait très souhaitable de définir les statuts de sociétés de droit européen dans un secteur qui plus que d'autres a besoin de se réorganiser par des alliances et des fusions.

Par ailleurs, pour ce qui est plus particulièrement du suivi des activités d'exploitation des entreprises de télécommunications gérant des réseaux généraux et pas seulement des administrations, les pratiques de subvention croisée des services concurrentiels et des services réservés devraient être observées tant sous leurs formes fiscales que financières et tarifaires.

Les accords et les règles évoqués dans la position J au titre de la politique commerciale commune au sein de la Communauté devraient quant à eux être transférables ou applicables aux entreprises de télécommunications, quelle que soit leur nature d'administration, d'entreprise publique ou privée.

Enfin il apparaît également souhaitable que la CCE demande à l'occasion des négociations GATT aux pays à structure fédérale ou confédérale une stricte réciprocité de conditions d'échange de services au niveau de leurs états fédérés.

En conclusion le CNPF réaffirme son accord global sur les positions proposées dans le Livre Vert de la CCE, et partage son souci de prendre pleinement en compte les différentes situations nationales afin de réaliser progressivement les évolutions nécessaires à l'horizon 1992.



STATEMENT ON THE GREEN PAPER ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATIONS SERVICES AND EQUIPMENT

Preamble

The Green Paper produced by the Commission of the European Communities has as its objective "a technically advanced European-wide and low-cost telecommunications network (which) will provide an essential infrastructure for improving the competitiveness of the European economy, achieving the Internal Market and strengthening Community cohesion". The PTTI, which favours European integration and, therefore, the development of coherent common economic policies, not only for the European Communities, but also for the whole of Western Europe, welcomes the Commission's efforts to pursue this objective in the field of telecommunications.

The Commission's endeavours to bring about a common approach to telecommunications policies are of great importance not only to the countries of the European Communities, but to the whole of Western Europe. The search for the common approach should, therefore, involve EFTA, as well as the EEC countries.

The PTTI European Committee insists that the policies of the European Communities should safeguard the viability of the public telecommunications administrations and their ability to provide adequate services, accessible to all at reasonable prices, and that they should also aim at improving and harmonising employment conditions of the workers concerned. The development and application of telecommunications policies should be made in consultation and after negotiations with the trade unions, at the national and Community levels.

Principles of PTTI Policies

The European Committee recalls and reaffirms the policies laid down by the PTTI European Congresses, and in particular the Resolution adopted by the Congress held in Copenhagen in August 1986, the text of which is attached to this Statement. The Committee re-emphasises the fundamental principle that "PTT services should be organised as public services, the major aim of which is to ensure that all members of the community have access to good, up-to-date communications services at prices which they can afford, regardless of their location or wealth".

We recall that "PTTs have traditionally been able to provide universal service, because they were granted the exclusive privilege of providing certain services to the public which allowed PTTs to operate systems of cross-subsidisation, whereby profitable services could support those which were unprofitable but considered socially necessary".

The European Committee reaffirms the demand of the Copenhagen Congress that "any changes in regulations should enhance the ability of PTTs to offer universal services and remove any restrictions on PTT activities", and the demand that "PTTs should be free to develop and offer new services and types of services, whether or not these are in competition with companies in the private sector".

The Committee also recalls the demands of the European Congress that "all plans to change services, personnel policies and structures should be the subject of prior consultation and real negotiation with the unions concerned", and that "whatever changes in structure are agreed with trade unions, systems of national bargaining covering all activities of PTTs and, as far as possible, uniform conditions of work and employment must be maintained and that PTTs provide the necessary training and retraining for employees".

### General Comments

The PTTI European Committee welcomes the positive fundamental elements of the policies proposed in the Green Paper. We share the Commission's conviction as to the growing importance of telecommunications and its powerful impact on the economy of each member State and on the Community as a whole. We endorse the Commission's stand against the deregulation of European telecommunications and its preference for re-regulation.

The Green Paper rightly regards "an intensive dialogue with the social partners" as necessary "in order to ensure a smooth transition to new technologies", and also correctly emphasises as the most important factor for the future evolution of the telecommunications "the degree of social consensus which can be achieved regarding the new technology" (page 074). The emphasis on the need for consultations with trade unions at the Community and national levels regarding telecommunications policies is welcomed.

The European Committee fully endorses as crucial the following statement contained in the Green Paper (pages 018-019):

- "the current and future integrity of the basic network infrastructure must be maintained or created;
- this implies, in particular, a continuing strong role for Telecommunications Administrations in the provision of network infrastructures, a strong emphasis on Europe-wide network standards. It also implies safeguarding the financial viability of Telecommunications Administrations, in order to ensure the build-up of the new generation of telecommunications infrastructures and the necessary level of investment."

The European Committee reiterates the PTTI's support for the Commission's endeavours, once again emphasised in the Green Paper, to promote the co-ordinated introduction of ISDN and IBC, a Community-wide mobile communications system, programme of assistance to less-favoured regions in telecommunications development (STAR), research programme RACE and ESPRIT and the harmonisation of standards and specifications.

On the other hand, the PTTI European Committee is concerned about the restrictive qualifications in the Green Paper, which seriously limit the "exclusive provision or special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure". It is particularly disquieting to see the statement in the Green Paper (page 104), which is contradictory to the one previously quoted and which is to the effect that "exclusive network provision must be narrowly defined".

We are also preoccupied with the excessive reliance in the Green Paper on competition as the force for the development of telecommunications services and the tendency to protect private competitors from Telecommunications Administrations, with inadequate regard for the need to protect the financial viability of the Administrations and their right to compete on an equal footing with others in the field open to competition.

The Committee expresses the gravest doubts about the Commission's proposals regarding the scope which should be open to competition.

Industrial policies should be formulated, taking into consideration, as one of the essential factors, the employment and social aspects. It is, therefore,

regretted that the Green Paper, though recognising the importance of this factor, does not make appropriate proposals as part and parcel of its general conception of telecommunications policies.

While appreciating the problems which these matters present for the Commission, we cannot but regret the absence of an expression of definite support for the concept of telecommunications as a public service, best run as a publicly-owned undertaking, as well as the assurance that the policies advocated in the Green Paper cannot and must not by implication be regarded as advocacy for the separation of telecommunications from posts in countries where they are part of the same Administration.

In our opinion, there are some contradictions in the policies outlined in the Green Paper. The one of utmost importance concerns the means to achieve the general objective of the development of strong telecommunications infrastructures and efficient services. This calls for the investment of large amounts of money by the Telecommunications Administrations. We are concerned about the danger that other recommended policies, those relating to competition and cross-subsidisation, will impair the ability of Administrations to develop a strong telecommunications infrastructure (ISDNs in particular) and new services.

#### Proposed Positions in the Green Paper

It is assumed that Figure 13, entitled "Proposed Positions", is not merely a summary of the recommendations made in the Green Paper, but also constitutes a set of definite proposals. Our comments are based on this assumption.

The preamble in Figure 13 should, in our opinion, include the following phrases (in the definition of objectives):

- ensuring that all members of the community have access to good, up-to-date communications services at prices which they can afford, regardless of their location or wealth;
- establishing a common approach to telecommunications on the basis of agreement with the social partners and with due account being taken of employment, working conditions, training and other social aspects.

It is also suggested that after "creating an open competitive environment" a qualification should be added along the following lines: "to the extent of its compatibility with broader economic and social objectives".

As for Position A, the PTTI European Committee endorses the first paragraph in it, but calls for the addition of the following paragraph, contained in the main body of the Green Paper and already quoted:

"This implies a continuing strong role for the Telecommunications Administrations in the provision of network infrastructures and safeguarding their financial viability to ensure the build-up of the new generation of telecommunications infrastructures and the necessary level of investment."

Further, in our view, the best way in which to ensure the achievement of these objectives is for each country to have one single public network of telecommunications and we urge that this should be advocated by the Commission. The introduction of more than one network in any country is not only unnecessary, and wasteful of resources and finance, but makes the objective of a fully integrated European network much more difficult to achieve.

We express the most serious reservations about the paragraph dealing with two-way satellite communications systems. In our opinion, the opening of two-way satellite communications to competition, however closely monitored, is bound to have a serious negative effect on the financial viability of Telecommunications Administrations. It would create a competing network which would allow a significant diversion of traffic of all kinds which is in contradiction with the position with the position (A) proposed by the Commission.

The PTTI European Committee raises serious reservations and objections to Position B. In our opinion, it is not in line with the emphasised need for a strong role of Telecommunications Administrations, for their financial viability and their ability to invest large amounts.

We urge that an amendment should be made in the first sentence, in order that it should speak of "exclusive provision" of basic services by Telecommunications as being "considered essential for safeguarding the financial viability of the Administrations and their ability to invest in development of future networks, as well as for safeguarding public service goals".

In Position B, the Commission expresses the view that "exclusive provision must be narrowly construed and be subject to review within given time intervals". This proposal does not show any concern for the financial viability of Telecommunications Administrations, but seems to show concern only for the commercial interests of private enterprises providing services open to competition. Clearly, if uncertainty about the future classification is detrimental to private providers of value-added services, as stated on page 049, so it is to the Telecommunications Administrations.

Even more importantly, the PTTI European Committee is in disagreement with the fundamental policy pronouncement that the basic services should be narrowly defined. On the contrary, they should be defined broadly, with a view to ensuring the strong role of Telecommunications Administrations, their financial viability and ability to develop future networks. We recommend that the "exclusive provision" by Telecommunications Administrations should, without a time limit being already spoken of at this stage, include not only voice telephony, but also telegraphy, telex, digital and data transmission and any system capable of two-way transmission.

We also urge that adequate protection be given to the exclusive provision of services by Telecommunications Administrations, in particular by:

- the Community-wide prohibition of the resale of leased circuits, as the only effective way of preventing the "skimming off" of traffic on the most profitable routes;
- guaranteeing universal and equal access to basic services as defined above.

Position C should be drastically altered to reflect the amendments which the PTTI European Committee recommends for Position B. In particular, the phrase "free (unrestricted) provision of all other services" should not be used. Position C should speak of the provision, on a competitive basis, subject to restrictions defined under B, of value-added services.

We wish to question again the over-reliance on competition, which may, in some cases, be detrimental to the majority of customers.

The Commission's declared aim is to strengthen the European presence in telecommunications in Europe and in dealings with the rest of the world. However, the unnecessary opening up of a wide range of services to competition will enable a flood of products from non-European countries to enter the European market. In many of those countries there are no reciprocal opportunities for European products to enter their markets.

It should also be emphasised again that where services are open to competition, Telecommunications Administrations must have the right to compete on an equal footing with other service providers.

With regard to Position D, the PTTI European Committee fully shares the Commission's concern about common standards and specifications. At the same time, we wish to emphasise our view, which is that CEPT should continue to play the central role in all these matters. Standards and specifications should be established with reference to the requirements of the networks which the Administrations provide and should apply to all countries of Western Europe. Both these arguments militate in favour of the continuing role of CEPT.

In the last sentence of Position E, the trade unions should be specifically mentioned as parties concerned which should be consulted. The proposed text could be interpreted as recommending that consultations to be held in the search for a consensus should be exclusively "in the framework of the Senior Officials Group on Telecommunications". We regard this framework as much too narrow and urge considerably wider consultations. No "open network provision" ONP should bring restrictions on the technical development of the main public network or endanger its financial viability.

We are inclined to agree with the statement in Position F that "provision of the first (conventional) telephone set could be excluded from unrestricted provision", except that the word "could" ought to be replaced by "should", the word conventional in brackets should be deleted and that this should not be done "on a temporary basis", as recommended by the Commission.

The PTTI European Committee does not agree with the recommendation that "Receive Only Earth Stations for satellite down-links should be assimilated with terminal equipment and be subject to type approval only". A measure of this kind would inevitably lead to the opening of the whole of satellite communications to competition, which would have serious unfavourable effects on the telecommunications network providers.

In Position G, the Commission recommends the "separation of regulatory and operational activities of Telecommunications Administrations" and defines broadly the "regulatory activities". The view that a public authority should be vested with the regulatory process can hardly be contested, but when Telecommunications have the status of a State department or undertaking and provide a single network infrastructure and broadly defined basic services, it seems reasonable and practical for such an Administration to act as the public authority entrusted with the regulatory process, to be exercised under democratic control. In other situations, in some of which the separation of regulatory from operational activities is desirable, steps must be taken to ensure that the regulatory authority does not come under domination of equipment manufacturers or large providers of competitive services. The operations of the regulatory body should be open to public scrutiny, particularly by the trade unions and users.

When Telecommunications Administrations are not responsible for standard setting and approval procedures, Member Governments must provide adequate financing and organisation of the proper facilities.

Positions H and I make an almost identical recommendation with regard to a "strict continuous review of operational (commercial) activities of Telecommunications Administrations" and "of all private providers in the newly-opened sectors". However, as far as the Telecommunications Administrations are concerned, there is an additional recommendation which applies only to them. This is to the effect that the review should apply "in particular to practices of cross-subsidisation of activities in the competitive services sector and of activities in manufacturing".

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The distinction made between the Administrations and private providers is unwarranted. Indeed, the Green Paper itself contains, on page 109, the recommendation that "close surveillance of cross-subsidisation practices in the operational activities of both Telecommunications Administrations and private providers in the newly-opened competitive services and terminal sectors will be required ..."

We urge the Commission to replace the present wording in Position I by the formulation quoted above.

In presenting our further comments on cross-subsidisation, we refer to the statements on page 109 of the Green Paper, with which we are in agreement: "A certain amount of cross-subsidisation is permissible in any commercial venture. Existing product lines may subsidise new product lines during their crucial phase of initial market entry in virtually every corporate marketing strategy."

The above-quoted rule should apply to Telecommunications Administrations as well as to private providers of services.

Furthermore, cross-subsidisation by Telecommunications Administrations should be permitted in order to provide adequate funds for socially desirable services, such as public call offices, emergency services, as well as lower pricing for residential users who are financially or otherwise at a disadvantage.

The PTTI European Committee is aware of and supports the STAR programme and, in the same spirit, proposes the addition of the following Position:

"Economic, financial, technical and regulatory measures will be taken by the Commission to ensure the development of telecommunications in all the member States, particularly where they are deficient in relation to more developed areas, with a view to all the European Administrations being able to contribute to the achievement of the goals defined in the Green Paper."

We also urge the Commission to add further Positions in respect of the social impact of the proposed policies and the need for training and re-training of personnel. Without these additions, the Commission's recommendations would, in our opinion, be incomplete. These are our proposals:

- 1 The need for a common analysis of the social impact and conditions for a smooth transition must be recognised. In the formulation of policies and regulations in respect of telecommunications, account must be taken of the impact on jobs, and measures to ensure job security and the creation of new jobs to replace those which disappear should be taken.
- 2 Training and re-training of personnel are an integral part of any comprehensive programme for telecommunications. Adequate finances must be provided for these activities, as well as for training of trade union representatives, to enable them to participate effectively, at the local and national levels, in discussions on the introduction of technological, regulatory and structural changes in telecommunications.

PROPOSED POSITIONS

The general objective of the positions set out is the development in the Community of a strong telecommunications infrastructure and of efficient services : providing the European user with a broad variety of telecommunications services on the most favourable terms, ensuring coherence of development between Member States, and creating an open competitive environment, taking full account of the dynamic technological developments underway.

- A) Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision and operation of the network infrastructure. Where a Member State chooses a more liberal regime, either for the whole or parts of the network, the short and long term integrity of the general network infrastructure should be safeguarded.

Closely monitored competitive offering of two-way satellite communications systems will need further analysis. It should be allowed on a case-to-case basis, where this is necessary to develop European-wide services and where impact on the financial viability of the main provider(s) is not substantial .

Common understanding and definition regarding infrastructure provision should be worked out under E) below.

- B) Acceptance of continued exclusive provision or special rights for the Telecommunications Administrations regarding provision of a limited number of basic services, where exclusive provision is considered essential at this stage for safeguarding public service goals.

Exclusive provision must be narrowly construed and be subject to review within given time intervals, taking account of technological development and particularly the evolution towards a digital infrastructure. "Reserved services" may not be defined so as to extend a Telecommunications Administration service monopoly in a way inconsistent with the Treaty. Currently, given general understanding in the Community, voice telephone service seems to be the only obvious candidate.

- C) Free (unrestricted) provision of all other services ("competitive services", including in particular "value-added services") within Member States and between Member States (in competition with the Telecommunications Administrations) for own use, shared use, or provision to third parties, subject to the conditions for use of the network infrastructure to be defined under E).

"Competitive services" would comprise all services except basic services explicitly reserved for the Telecommunications Administrations (see B).

- D) Strict requirements regarding standards for the network infrastructure and services provided by the Telecommunications Administrations or service providers of comparable importance, in order to maintain or create Community-wide inter-operability. These requirements must build in particular on Directives 83/189/EEC and 86/361/EEC, Decision 87/95/EEC and Recommendation 86/659/EEC.

Member States and the Community should ensure and promote provision by the Telecommunications Administrations of efficient European-wide and worldwide communications, in particular regarding those services (be they reserved or competitive) recommended for Community-wide provision, such as according to Recommendation 86/659/EEC.

- E) Clear definition by Community Directive of general requirements imposed by Telecommunications Administrations on providers of competitive services for use of the network, including definitions regarding network infrastructure provision.

This must include clear interconnect and access obligations by Telecommunications Administrations for trans-frontier service providers in order to prevent Treaty infringements.

Consensus must be achieved on standards, frequencies, and tariff principles, in order to agree on the general conditions imposed for service provision on the competitive sector. Details of this Directive on Open Network Provision (O N P) should be prepared in consultation with the Member States, the Telecommunications Administrations and the other parties concerned, in the framework of the Senior Officials Group on Telecommunications (SOG-T).

- F) Free (unrestricted) provision of terminal equipment within Member States and between Member States (in competition with Telecommunications Administrations), subject to type approval as compatible with Treaty obligations and existing Directives. Provision of the first (conventional) telephone set could be excluded from unrestricted provision on a temporary basis.

Receive Only Earth Stations (ROES) for satellite down-links should be assimilated with terminal equipment and be subject to type approval only ;

- G) Separation of regulatory and operational activities of Telecommunications Administrations. Regulatory activities concern in particular licensing, control of type approval and interface specifications, allocation of frequencies, and general surveillance of network usage conditions ;

- H) Strict continuous review of operational (commercial) activities of Telecommunications Administrations according to Articles 85, 86 and 90, EEC Treaty. This applies in particular to practices of cross-subsidisation of activities in the competitive services sector and of activities in manufacturing ;
- I) Strict continuous review of all private providers in the newly opened sectors according to Articles 85 and 86, in order to avoid the abuse of dominant positions ;
- J) Full application of the Community's common commercial policy to telecommunications. Notification by Telecommunications Administrations under Regulation 17/62 of all arrangements between them or with Third Countries which may affect competition within the Community. Provision of information to the extent required for the Community, in order to build up a consistent Community position for GATT negotiations and relations with Third Countries.



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20.11.82

POSITION STATEMENT BY THE  
PLESSEY TELECOMMUNICATIONS DIVISION  
OF PLESSEY-UK LIMITED



THE GREEN PAPER ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATION SERVICES AND EQUIPMENT [COM (87) 290]

THE POSITION STATEMENT BY THE PLESSEY TELECOMMUNICATIONS  
DIVISION OF PLESSEY-UK LIMITED

1. OVERALL VIEW

- Plessey supports the liberalisation objectives of the EEC Commission and welcomes the constructive proposals for development of an advanced European telecommunications infrastructure with a Community wide competitive market for telecommunications equipment and services.
- Whilst the Green Paper establishes broad principles, it nevertheless raises detailed issues that require further study and discussion. Principal amongst these are:-
  - o The establishment and authority of a European Telecommunication Standards Institute ("ETSI").
  - o The proposed restrictions on the resale of voice telephony.
  - o The regulatory arrangements necessary to ensure fair competition between Public Telecommunications Administrations ("PTA's") and their competitors.

2. SPECIFIC ISSUES

- Plessey's position on each of the Commission's main proposals is:-
  - 2.1 Exclusive or Special Rights for PTA's to provide and operate network infrastructures.  
Case by case liberalisation of two way satellite communications.
    - o Plessey accepts that PTA's are entitled to special privileges where they have obligations to provide a universal public network infrastructure.
    - o Such privileges may be necessary to protect PTA's financial viability and are conducive both to network integrity and co-ordinated infrastructure development.

- o Public Network Infrastructure must be defined so as to clarify whether it includes local cable systems, mobile communications and similar activities. Plessey's view is that the PTA's exclusive rights should be restricted to such infrastructure as is traditionally associated with public telephone and telex networks, including the provision (but not operation), of point to point private circuits. Such rights should not include local cable systems, private networks (except for the provision of private circuits) and mobile radio, even though they may carry public traffic to and from public networks.
- o Plessey believes it is reasonable to expect that any special PTA privileges are counterbalanced by special PTA obligations regarding:-
  - public network availability and reliability.
  - community wide interoperability.
- o For all system interfaces stable network boundaries will have to be defined as well as interface standards and performance impairment allocations that do not unfairly favour PTA's.
- o Public Network Termination points should also be fixed at the outermost practical physical limit of customer premises. This will provide a safeguard against the tendency for public networks to migrate on to customer premises on technical grounds to the detriment of competition in the supply of attachments.
- o Numbering plans and associated signalling systems will have to be universally applied if network interconnection and interoperability are to be assured.
- o If two way satellite communications are freed for competitive operation then this should not be on the "case by case" basis suggested, which can only create uncertainty. The telecommunications industry cannot sensibly commit to the development and supply of new equipment and services if the boundaries between "reserved" and competitively operated systems are unstable and susceptible to interpretation case by case.

2.2 Exclusive or special rights for PTA's to provide a narrowly construed range of basic services.

- o Plessey accepts that certain basic services may, for the time being, be reserved for PTA's but only where this is essential to ensure the PTA's financial viability and the achievement of community social objectives.
- o Plessey suggests that financial viability is not the exclusive preserve of PTA's. European liberalisation arrangements must also recognise that manufacturers, suppliers and service providers have to invest heavily and the regulatory arrangements must also encourage their financial viability with an eye to both European and global markets.
- o Plessey welcomes the proposal to define basic services narrowly, but does not accept that voice telephony should be defined as a basic service. The distinction between voice and data will become increasingly difficult and costly to make, especially with the widespread adoption of digital technology and the introduction of ISDN.
- o Reservation of voice telephony to the PTA's could act as an artificial brake on the introduction of such new technology and competitive services. This would be particularly so if usage based tariffs are imposed on leased lines since users (and industry in particular) would be denied the full economic benefit of lower communication costs that such technology and services can offer.
- o Plessey suggests that basic services be limited to the provision of a conveyance facility which both PTA's and others could use to convey information in competition. Tariffs for use of the facility would be payable by service providers based on the cost to the PTA of providing the facility and not the nature of the information conveyed.
- o If, for economic reasons, (since voice currently dominates European PTA revenues) the provision of voice services is temporarily reserved to PTA's, then Plessey would wish to see competitive supply of voice in association with data subject, perhaps, to tariff restrictions on the voice element. Such an arrangement would limit the frustrating effect of reservation of voice on introduction of ISDN and the realisation of the economic benefits it can confer on European industry and commerce.

- o Centrex services should not be included as part of basic voice services as to do so would unfairly disadvantage PABX suppliers and the development of private networks. Plessey suggests that both PTA owned 'Centrex Service Providers' and their competitors should have the right to use PTA network switching infrastructure on equivalent terms, so that both can offer Centrex services to users in competition.
- o Plessey believes reserved basic services are a critical area for further study by the Commission with the overriding aim that the distinction between basic and competitive services should be stable and simple to apply.

2.3 Unrestricted provision of competitive services, (particularly value added), including "trans-border" supply.

- o Whilst welcoming the opportunities this proposal affords to suppliers, operators and users, Plessey believes they will only be realised if competition is fair.
- o Fair competition means that in-built PTA competitive advantages will have to be counterbalanced by firm regulatory control. For instance the PTA's can enjoy:-
  - prior knowledge of network improvements affecting the design of attachments.
  - privileged access as a network operator to valuable information on customers' needs for attachments.
  - the "one stop shopping" tendencies of network users.
  - opportunities for hidden cross-subsidy to support predatory pricing.
  - privileged access to the exploitable functionality of the core infrastructure. (For example use of embedded public switching facilities to provide enhanced services such as Centrex could undermine PABX pricing if Centrex charges do not accurately reflect the cost of acquiring and operating such facilities).

- o Plessey's view is that such competitive advantages would be minimised if PTA's were obliged to separate their competitive services from other activities and to allow regulatory authorities to inspect their accounts for competitive services.
- o Plessey suggests it will also be necessary to ensure that PTA prices for competitive services do not discriminate between charges made to PTA's "in house" businesses and those made to competitors. Whilst cross subsidisation may be a legitimate business tactic it becomes unfair if income from an area of restricted competition (such as 'basic services') is used to manipulate prices in the competitive areas. Equivalent pricing both to 'in house' and external entities would help to reduce the incentive for predatory pricing.
- o Furthermore, Plessey suggests that competitive services require the co-ordinated adoption (in the absence of consensus if necessary), of Europe wide mandatory standards to be used for Open Network provision. These should include commitments to OSI to forestall progressive adoption of proprietary standards that might otherwise favour individual suppliers.
- o Plessey is concerned that the Green Paper makes no mention of installation and maintenance. Experience suggests these must be liberalised if competition is to be effective. Accordingly, Plessey suggests installation and maintenance should be confirmed as competitive services even for equipment connected directly to "reserved" network infrastructure.

2.4 Strict Standards requirements to ensure Community wide interoperability.

- o Plessey supports the Commission's commitment to international standards such as OSI and the initiatives already taken with ISDN.
- o Plessey agrees that immediate mutual recognition of standards might damage the competitiveness of the European Telecommunications industry and that progress towards recognition, coupled with gradual harmonisation, is the best route forward.

- o The key to success is the acceleration of the harmonised standards making process, and Plessey welcomes the proposal for a European Telecom Standards Institute ("ETSI").
- o Plessey does not believe that ETSI can be successfully operated as a minimal resource addition to CEPT. Plessey's view is that scarce resources must be co-ordinated and financed to generate an ETSI in which industry and users are adequately represented with the capacity to develop standards rapidly.
- o Whilst recognising the key role of PTA's in network standards, Plessey is convinced that fair competition in the supply of attachments and the provision of "competitive" services will only be possible if CEPT and the PTA's cannot dominate ETSI. This is particularly important for Attachment Standards where the PTA's could apply such dominance to their commercial advantage. Furthermore, rapid progress on European wide integrity will only be made if, even in the case of Network standards, they can be adopted and imposed without full European PTA consensus.
- o Plessey believes that the detailed structure of ETSI can only be defined once the extent of its role and powers have been agreed. Whatever structure is adopted must provide industry and users with voting power in both the creation and adoption of standards. It will also be essential to ensure that European Standards are not unduly onerous and that they do not conflict with emerging international standards. The European telecommunications industry must not be placed at a disadvantage in the global marketplace by having to design and manufacture European products that are not globally competitive. Furthermore, Network Standards (where the PTA's may legitimately have a controlling influence) must not be configured in such a way as to restrict the choices of attachment standards that are necessary to support international competitiveness.
- o Plessey supports Open Procurement being imposed by a Directive, provided there are regulatory controls to prevent PTA's from unfairly favouring their own manufacturing organisations.

2.5 Open Network provision and trans-border provision of services.

- o Plessey agrees that consensus must be sought on standards, frequencies and tariff principles for the introduction of Open Network provision, which Plessey supports.
  
- o Plessey also supports the Commission's encouragement of trans-border service provision, provided that national tariffs and access conditions are not allowed to create artificial imbalances in service provision between Member States. Plessey suggests that trans-border service providers must be regulated to prevent dumping of services or predatory pricing.
  
- o Plessey believes that competitive services must include commitment to OSI and that full functional standards (profiles) for such services covering all relevant layers of the OSI Reference Model should be published and maintained by service providers to ensure harmonised European OSI implementation.
  
- o Plessey regards the suggested separation of "bearer" and "value added" tariffs as essential for fair competition in competitive services where the PTA's may also be service providers.

2.6 Unrestricted competition in Terminal Equipment

- o Whilst welcoming the almost complete liberalisation of terminal equipment, Plessey is concerned at the possible retention of the first telephone monopoly and the competitive advantage this will confer on PTA's for a wide range of attachments. Plessey does not believe there is any technical or regulatory justification, (even on a temporary basis), for exclusion of the first telephone from liberalisation.

- o Plessey believes that fair competition in terminal supply can only be assured if the PTA's separate any commercial involvement they have in terminal manufacture and supply from their privileged network activities and that cross subsidisation between the two is prevented.

2.7 Separation of Regulatory and Operational Activities of PTA's.

- o Plessey regards this proposal as fundamental and, as already indicated, part of a process that should also deny the PTA's the option of regulating indirectly through manipulation of the standards making process.
- o Plessey's opinion is that the liberalisation process, and achievement of the Commission's objectives, are dependent upon there being a strong independent Regulatory Authority with the resources and powers to restrain abuses before they occur. The Authority should be responsible to the Commission for supervision and implementation of telecommunications regulatory policy. Such an Authority could be a co-ordinator of National Authorities such as OFTEL.

2.8 Strict Application of EEC Competition Law to competitive service providers.

- o Plessey accepts that competitive service providers should be subject to regulations to prevent abuse of a dominant position. Here also, Plessey suggests the appropriate authority is a European Regulatory Authority.

2.9 Application of the EEC Common Commercial policy to Telecoms

- o Plessey supports the objective of a single internal European market and the progressive removal of constraints upon its realisation, particularly legal and regulatory barriers. National laws and regulations on copyright, liability, confidentiality and fraud must be harmonised if they are not to deter achievement of the internal market.

- o Plessey urges the Commission to take a firm stand in GATT negotiations regarding reciprocity in both equipment supply and service provision in order to prevent European liberalisation providing a conduit for increased imports. Plessey takes the view that in this fundamentally important area the Green Paper is long on intent and short on specific proposals.
- o Access to a liberalised European market by overseas suppliers must be conditional upon genuine equality of opportunity being established in the overseas supplier's domestic market. Such access will have to be established product category by product category in order to prevent reciprocal sales in one category (such as public switching) "balancing" the decimation of European manufacturers in another.
- o Plessey also suggests that when assessing potentially unfair foreign competition it will not be sufficient to look solely at imports, but that it will also be necessary to examine inward investment operations designed to achieve the benefit of EEC status with minimal added value.

### 3. TIMESCALE

- Plessey suggests that achievement of the Commission's objectives will require a publicly announced timescale so that transition can occur in an orderly planned manner. In particular, Plessey suggests that, recognising the scarcity of human resource, emphasis should be placed on standards and liberalisation for new products and services so avoiding the squandering of resources in futile attempts to reconcile the historic analog distinctions between systems already installed in Member States.
- With its experience of liberalisation in the United Kingdom and enthusiastic support of a European approach in Telecommunications, Plessey confirms its willingness to assist the Commission in whatever way it can.

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I.P.T.T.

INTERNATIONALE DU PERSONNEL DES POSTES, TELEGRAPHES ET TELEPHONES

COMITE EUROPEEN

(Madrid, 16 et 17 septembre 1987)

DECLARATION

concernant

LE "LIVRE VERT" SUR LE DEVELOPPEMENT DU MARCHÉ COMMUN DES SERVICES ET  
EQUIPEMENTS DE TELECOMMUNICATIONS

### Introduction

Le "Livre Vert" élaboré par la Commission des Communautés Européennes a pour but "un réseau européen de télécommunications, à la fois peu coûteux et techniquement avancé (qui) jouera un rôle essentiel pour l'amélioration de la compétitivité de l'économie européenne, la réalisation du marché intérieur et le renforcement de la cohésion de la Communauté". L'IPTT qui préconise l'intégration européenne et, par conséquent, le développement de politiques économiques communes cohérentes, non seulement pour les Communautés européennes mais aussi pour l'Europe occidentale dans son ensemble, approuve les efforts de la Communauté pour atteindre cet objectif dans le domaine des télécommunications.

Les tentatives de la Commission visant à parvenir à une attitude commune au sujet des politiques des télécommunications sont d'une grande importance, non seulement pour les pays de la Communauté européenne, mais pour l'ensemble de l'Europe occidentale. La recherche de cette attitude commune doit donc impliquer l'AELE tout autant que les pays de la CEE.

Le Comité Européen de l'IPTT insiste pour que les politiques de la Communauté européenne sauvegardent la viabilité des administrations publiques de télécommunications ainsi que leur capacité d'offrir des services adaptés, accessibles à tous à des prix raisonnables, et qu'elles aient également pour but l'amélioration et l'harmonisation des conditions d'emploi des travailleurs concernés. Le développement et l'application des politiques des télécommunications doivent se faire en accord avec les syndicats et après négociations aux niveaux national et de la Communauté.

### Principe des politiques de l'IPTT

Le Comité Européen rappelle et réaffirme les politiques définies par les Congrès Européen de l'IPTT et, en particulier, la résolution adoptée par le Congrès qui s'est tenu à Copenhague, en août 1986 et dont le texte figure en annexe. Le Comité souligne à nouveau le principe fondamental que "les PTT doivent être organisés en tant que services publics, dont le but principal est d'assurer à tous les membres de la Communauté, quels que soient leur lieu d'habitation et leurs moyens financiers, un accès à des services de communications qui soient bons et modernes, à des tarifs qu'ils puissent supporter".

Nous rappelons que, "traditionnellement, les PTT, parce que le privilège exclusif de fournir certains services au public leur était accordé, ont été capables de fournir un service universel, ce qui a permis aux PTT d'utiliser le système par lequel les services rentables pouvaient financer ceux qui ne l'étaient pas, mais qui étaient cependant considérés comme socialement nécessaires".

Le Comité Européen réaffirme la position du Congrès de Copenhague demandant que "tout changement des règlements vise à renforcer la capacité

des PTT à offrir des services universels et à lever toutes restrictions sur les activités des PTT", et la demande que "les PTT soient libres de développer et d'offrir tous les types de nouveaux services, que ce soit ou non en concurrence avec des compagnies du secteur privé".

Le Comité rappelle aussi les demandes du Congrès européen que "tous les projets visant à changer les services, les politiques de personnel et les structures, fassent l'objet de consultations préalables avec les syndicats concernés et de véritables négociations avec ceux-ci", et celle qui insiste "pour que, quels que soient les changements de structures sur lesquels un accord aura été réalisé avec les syndicats, les systèmes nationaux de négociation couvrant toutes les activités des PTT, ainsi que, dans toute la mesure du possible, des conditions de travail et d'emploi uniformes, soient maintenus, et pour que les PTT fournissent la formation professionnelle et le recyclage nécessaires aux employés".

#### Commentaires généraux

Le Comité Européen de l'IPTT approuve les éléments fondamentaux positifs des politiques proposées dans le "Livre Vert". Il partage la conviction de la Commission concernant l'importance croissante des télécommunications et leur impact sur l'économie de chaque état membre et sur la Communauté dans son ensemble. Il approuve la position de la Commission contre la déréglementation des télécommunications européennes et sa préférence pour leur "re-réglementation".

Le "Livre Vert" considère à juste titre qu'"un dialogue intense avec les partenaires sociaux" est nécessaire "pour garantir une transition souple aux nouvelles technologies", soulignant aussi "le degré de consensus social qui peut être atteint à propos des nouvelles technologies" (page 066) est le facteur le plus important en ce qui concerne l'évolution future des télécommunications. L'accent mis sur la nécessité de la consultation avec les syndicats aux niveaux de la Communauté et national au sujet des politiques de télécommunications est accueilli avec satisfaction.

Le Comité Européen approuve entièrement et considère comme essentielle la déclaration suivante figurant dans le "Livre Vert" (page 016-017) :

- "l'intégrité actuelle et future de l'infrastructure du réseau de base doit être préservée ou créée;
- ceci implique que le rôle des administrations des télécommunications comme fournisseur des infrastructures des réseaux doit rester important et qu'il faut accorder la plus grande attention aux normes de réseau européennes. Cette orientation implique également la sauvegarde de la viabilité financière des administrations des télécommunications afin d'assurer la mise en oeuvre de nouvelles générations d'infrastructures de télécommunications et le niveau d'investissement nécessaire."

Le Comité Européen réitère l'appui de l'IPTT à l'égard des efforts de la Commission, soulignés, à nouveau, dans le Livre Vert, visant à l'introduction coordonnée des RNIS et IBC, d'un système de communications mobile au niveau de la Communauté, du programme d'aide au développement des télécommunications en faveur des régions les moins favorisées, (STAR), des programmes de recherche RACE et ESPRIT, et l'harmonisation des normes et des spécifications.

D'un autre côté, le Comité Européen de l'IPTT s'inquiète des conditions restrictives, qui figurent dans le "Livre Vert", et qui limitent en grande mesure "le principe de l'exclusivité ou les droits spéciaux des administrations des télécommunications en ce qui concerne l'offre et l'exploitation de l'infrastructure du réseau." Il est particulièrement alarmant de voir la déclaration, à la page 097 "du Livre Vert", qui est en contradiction avec celle citée précédemment et qui stipule que "l'infrastructure de

à disposition exclusive de l'infrastructure de réseau doit être définie de façon étroite"

Le Comité européen est également préoccupé par la confiance excessive qu'accorde le "Livre Vert" à la concurrence en tant que moteur du développement des services de télécommunications et sa tendance à protéger les concurrents privés des administrations de télécommunications, et qui ne tient pas suffisamment compte de la nécessité de protéger la viabilité financière des administrations, ni de leur droit à la concurrence, sur un pied d'égalité, dans le domaine ouvert à la concurrence.

Le Comité exprime de sérieux doutes en ce qui concerne les propositions de la Commission relatives aux domaines qui devraient être ouverts à la concurrence.

Les politiques industrielles devraient prendre en considération en tant que mesures déterminantes l'emploi et les aspects sociaux. Il est donc regrettable que le "Livre Vert", bien qu'il reconnaisse l'importance de ce facteur, ne présente aucune proposition appropriée dans le cadre de sa conception générale des politiques de télécommunications.

Tout en reconnaissant les problèmes que ces différents aspects posent à la Commission, nous ne pouvons que regretter que ne soit exprimé aucun appui concret à l'égard du concept des télécommunications en tant que service public, mieux géré en tant qu'entreprise public, ni aucune assurance que les politiques préconisées dans le "Livre Vert" ne peuvent ni ne doivent être considérées comme favorables à la séparation des télécommunications et de la poste, dans des pays où elles font partie d'une même administration.

A notre avis, les politiques définies dans le "Livre Vert" comportent quelques contradictions. La plus importante d'entre elles concerne les moyens d'atteindre l'objectif général du développement d'infrastructures de télécommunications solides et de services efficaces. Ceci requiert l'investissement d'importantes sommes d'argent de la part des Administrations de Télécommunications. Nous sommes préoccupés par le danger que d'autres politiques recommandées, par exemple celles concernant la concurrence et la péréquation tarifaire ne diminuent la capacité des Administrations à développer une forte infrastructure de télécommunications (en particulier les RNIS) ainsi que de nouveaux services.

#### Positions proposées dans le Livre Vert

Il est permis de supposer que l'encadré No 13 intitulé "Positions proposées" n'est pas simplement un résumé des recommandations faites dans le "Livre Vert", mais qu'il constitue un ensemble de propositions concrètes. Nos commentaires sont donc basés sur cette supposition.

L'introduction devrait inclure, à notre avis, les phrases suivantes (dans la définition des objectifs):

- la garantie que tous les membres de la communauté aient accès à de bons services de communications modernes, à des prix abordables, quels que soient leur lieu de domicile ou leurs revenus;
- l'établissement d'une approche commune concernant les télécommunications sur la base d'un accord avec les partenaires sociaux tenant compte de l'emploi, des conditions de travail, de la formation, et autres aspects sociaux.

Il est également suggéré qu'après la partie de phrase "créer un environnement ouvert à la concurrence", une condition devrait être ajoutée dans

les lignes suivantes: "dans la mesure de sa compatibilité avec des objectifs économiques et sociaux plus vastes".

En ce qui concerne la Position A, le Comité Européen de l'IPTT approuve son premier paragraphe, mais demande l'adjonction du paragraphe suivant, qui figure dans la partie principale du Livre Vert et qui a déjà été mentionné:

"Ceci implique que le rôle des Administrations des Télécommunications en tant que fournisseur de l'infrastructure des réseaux doit rester important, ainsi que la sauvegarde de leur viabilité financière, afin d'assurer la mise en oeuvre de nouvelles générations d'infrastructures de télécommunications et le niveau d'investissement nécessaire."

En outre, à notre avis, le meilleur moyen de garantir que ces objectifs soient atteints est que chaque pays dispose d'un seul réseau public de télécommunications et nous incitons la Commission à préconiser ce point de vue. L'introduction de plus d'un réseau dans quelques pays que ce soit n'est pas seulement inutile mais constituerait un gaspillage financier et rendrait plus difficile à atteindre l'objectif d'un réseau européen totalement intégré.

Nous exprimons la plus expresse réserve en ce qui concerne le paragraphe qui traite du système bi-directionnel de communications par satellite. A notre avis, l'ouverture à la concurrence du système bi-directionnel de communications par satellite, même s'il est étroitement contrôlé, ne peut manquer d'avoir de graves conséquences négatives sur la viabilité financière des administrations de télécommunications. La formule retenue crée un réseau concurrent, porteur d'importants détournements de trafic de toutes natures; ceci est en contradiction avec la Position A proposée par la Commission.

Le Comité Européen de l'IPTT exprime également de sérieuses réserves et objections en ce qui concerne la Position B. Il nous semble qu'elle n'est pas conforme aux besoins - qui ont été soulignés - d'un rôle primordial pour les Administrations des Télécommunications, de leur viabilité financière et de leur capacité à investir des montants importants.

Nous demandons que la première phrase soit modifiée de façon à indiquer que le "principe d'exclusivité" pour la prestation de services de base par les Télécommunications soit "considéré comme essentiel à la sauvegarde de la viabilité financière des administrations et à leur capacité d'investissement dans le développement de futurs réseaux, ainsi qu'à la sauvegarde de leur mission de service public".

Dans la Position B, la Commission exprime le point de vue que "le principe de prestation exclusive doit être interprété de façon étroite et doit être susceptible d'une révision à des périodes régulières". Cette proposition ne s'intéresse pas à la viabilité financière des Administrations de télécommunications, mais semble se préoccuper uniquement des intérêts commerciaux des entreprises privées qui offrent des services concurrentiels. Il est évident que si l'incertitude concernant la classification future est préjudiciable aux fournisseurs privés de services à valeur ajoutée, comme cela est indiqué à la page 049, il en est de même pour les Administrations de Télécommunications.

Plus important encore, le Comité Européen est en désaccord avec la déclaration politique fondamentale selon laquelle les services de bases doivent être définis de façon restrictive. Au contraire, ils devraient être définis largement, en vue de garantir le rôle important des Administrations de Télécommunications, leur viabilité financière et leur capacité de déve-

lopper de futurs réseaux. Nous recommandons que la "prestation exclusive" par les Administrations de Télécommunications, sans fixer, à ce stade, de limite dans le temps, devrait comprendre, non seulement le service téléphonique vocal, mais aussi le télégraphe, le télex, la transmission numérique et de données, ainsi que tout système de transmission bi-directionnelle.

Nous recommandons également qu'une protection appropriée soit apportée à la prestation exclusive par les Administrations de Télécommunications, en particulier, par :

- l'interdiction, au niveau de la Communauté de la revente de circuits loués, seul moyen efficace d'empêcher l'"écrémage" des services les plus rentables;
- La garantie d'un accès universel et égalitaire aux services de base tels que définis au paragraphe précédent.

La Position C doit être profondément modifiée afin de refléter les amendements recommandés par le Comité Européen de l'IPTT concernant la Position B. En particulier, la phrase "offre libre (sans restrictions) de tous les autres services" ne doit pas être utilisée. La Position C devrait parler de la fourniture, sur une base concurrentielle, sous réserve des restrictions définies sous B, des services à valeur ajoutée.

Nous mettons en doute, une fois de plus, l'excès de confiance accordée à la concurrence, laquelle, dans certains cas, peut être préjudiciable à la majorité des usagers.

Le but avoué de la Commission est de renforcer la présence européenne dans les télécommunications de l'Europe et dans les négociations avec le reste du monde. Toutefois, l'ouverture inutile d'une vaste gamme de services à la concurrence permettra à un flot de produits en provenance de pays non-européens de pénétrer sur le marché européen. Pour nombre de ces pays, il n'existe pas de réciprocité permettant aux produits européens d'entrer sur leurs marchés.

Il convient aussi de souligner à nouveau que, lorsque des services sont ouverts à la concurrence, les Administrations des Télécommunications doivent avoir le droit de faire concurrence, sur un pied d'égalité, avec les autres fournisseurs de services.

En ce qui concerne la Position D, le Comité Européen de l'IPTT partage totalement la préoccupation de la Commission au sujet des normes et spécifications communes. En même temps, nous voudrions souligner notre point de vue selon lequel la CEPT devrait continuer à jouer le rôle central pour toutes questions. Les normes et spécifications doivent être établies selon les exigences des réseaux fournis par les Administrations et s'appliquer à tous les pays d'Europe occidentale. Ces deux arguments militent en faveur du maintien du rôle actuel de la CEPT.

Dans la dernière phrase de la Position E, les syndicats devraient être mentionnés spécifiquement en tant que parties concernées qui doivent être consultées. Le texte proposé pourrait être interprété comme recommandant que les consultations visant à atteindre un consensus aient lieu exclusivement "dans le cadre du groupe de haut fonctionnaires sur les Télécommunications". Nous considérons que ce cadre est beaucoup trop étroit et recommandons des consultations considérablement plus larges. L'offre d'un réseau ouvert aux utilisateurs et prestataires de services (ONP : Open Network Provision) ne doit pas apporter de restrictions au développement technique du réseau principal public, ni mettre en danger sa viabilité financière...

Nous pourrions être d'accord avec la déclaration de la Position F selon laquelle "la fourniture du premier combiné téléphonique (conventionnel) pourrait être temporairement exclue de l'offre sans restriction", sauf que le terme "pourrait" devrait être remplacé par "devrait", que le mot conven-

tionnel, entre parenthèses, devrait être supprimé et que cela ne devrait pas être "temporairement" comme le recommande la Commission.

Le Comité Européen de l'IPTT n'est pas d'accord avec la recommandation selon laquelle "les stations terriennes de réception pour les liaisons par satellites descendantes devraient être assimilées aux terminaux et soumises uniquement à une procédure d'agrément." Une telle mesure menerait inévitablement à l'ouverture à la concurrence de l'ensemble des communications par satellites, ce qui aurait des graves conséquences défavorables pour les fournisseurs de réseaux de télécommunications.

Dans la Position G, la Commission recommande "la séparation des activités de réglementation et d'exploitation des Administrations des Télécommunications" et définit de manière générale "les activités de réglementation". Le point de vue qu'une Administration publique doit être responsable du processus de réglementation peut difficilement être contesté, mais quand les Télécommunications ont le statut de département ou d'entreprise d'Etat et offrent une infrastructure de réseau unique et des services de bases définis de manière globale, il semble raisonnable et pratique qu'une telle Administration agisse comme une autorité publique responsable du processus de réglementation, qui doit être exercé sous contrôle démocratique. Dans certains autres cas pour lesquels une séparation des activités de réglementation et des activités d'exploitation est souhaitable, des mesures doivent être prises afin d'assurer que l'autorité responsable de la réglementation ne soit pas dominée par des fabricants d'équipements ou par de gros fournisseurs de services concurrentiels. Les activités de l'organisme de réglementation doivent faire l'objet d'un examen public, en particulier de la part des syndicats et des usagers.

Lorsque les Administrations de Télécommunications ne sont responsables ni de la fixation des normes, ni des procédures d'agrément, les gouvernements des Etats-membres doivent fournir les finances et l'organisation des moyens adaptés.

Les Positions H et I font une recommandation pratiquement identique concernant un "suivi strict et continu des activités d'exploitation (commerciales) des Administrations des Télécommunications" et "de tous les prestataires dans les secteurs nouvellement ouverts". Cependant, en ce qui concerne les Administrations de Télécommunications, il y a une recommandation supplémentaire qui ne s'applique qu'à celles-ci. Ceci dans le but que l'examen s'applique "tout particulièrement aux pratiques de subvention des activités dans le secteur des services concurrentiels et des activités de production".

La distinction faite entre les Administrations et les fournisseurs privés est injustifiée. En effet, à la page 104, le Livre Vert lui-même recommande : "il faudra assurer un contrôle strict des pratiques de subvention croisée dans les activités de l'administration des télécommunications et des prestataires privés, dans les secteurs récemment ouverts à la concurrence des terminaux et des services".

Nous recommandons que la Commission remplace le texte actuel de la Position I par la formulation ci-dessus.

En présentant nos commentaires supplémentaires sur la péréquation tarifaire, nous nous référons aux déclarations qui figurent à la page 103 du "Livre Vert" et avec lesquelles nous sommes d'accord: "Dans toute entreprise commerciale un certain degré de subvention croisée est acceptable. Ainsi, toute stratégie de commercialisation d'une entreprise peut comporter le financement de nouveaux produits par des lignes de production existantes, durant la phase cruciale de pénétration initiale sur le marché".

Cette règle doit s'appliquer aussi bien aux Administrations de Télécommunications qu'aux fournisseurs privés de services.

En outre, la subvention croisée par les Administrations de Télécommunications doit être autorisée afin de fournir les fonds nécessaires pour des services socialement souhaitables, tels que cabines publiques, services d'urgence, ainsi que des tarifs réduits pour les usagers défavorisés, financièrement ou autrement.

Le Comité Européen de l'IPTT connaît et soutient le programme STAR; dans cet esprit, il propose l'adjonction de la Position suivante:

"La Commission prendra des mesures économiques, financières, techniques et de réglementation afin d'assurer le développement des télécommunications dans tous les Etats-membres, en particulier, dans ceux où ils sont insuffisants par rapport à des plus développés, afin que toutes les administrations européennes soient en mesure de contribuer à atteindre les objectifs définis dans le "Livre Vert."

Nous recommandons également que la Commission ajoute des positions supplémentaires concernant l'impact social des politiques proposées et les besoins de formation et de recyclage du personnel. A notre avis, ces ajouts, les recommandations de la Commissions seraient incomplètes. Nous proposons ce qui suit:

1. La nécessité d'une analyse commune de l'impact social et des conditions nécessaires à une transition souple doit être reconnue. Dans la formulation des politiques et règlements concernant les télécommunications, il doit être tenu compte de l'impact sur l'emploi, et des mesures doivent être prises afin de garantir la sécurité de l'emploi, ainsi que la création de nouveaux emplois, pour remplacer ceux qui disparaissent.
2. La formation et le recyclage du personnel font partie intégrante de tout programme d'ensemble pour les télécommunications. Des fonds suffisants doivent être accordés pour ces activités ainsi que pour la formation de représentants syndicaux afin de leur permettre de participer de manière efficace, aux niveaux local et national, aux discussions sur l'introduction de changements technologiques, structurels et de réglementation dans les télécommunications.



**Comments by RARE on the Green Paper "Towards a Dynamic European Economy" on the development of the common market for Telecommunications Services and Equipment**

**1. RARE's starting point**

RARE (Recherche Associee pour la Recherche Europeenne) has examined the Green Paper in detail. We believe that the creation of a strong unified European telecommunication infrastructure is vital for the continued growth of collaborative research activities. It is only through such research that Europe will maintain and extend its position within the world economy.

**2. The need for an open network**

Collaboration between research participants requires easy access to a cost effective infrastructure. Collaboration on a European scale implies that the European infrastructure should have a quality and cost comparable to that available on the national level. Barriers to communication within Europe represent barriers to cooperation, and therefore cost penalties with respect to our competitors.

These requirements apply equally to movement of equipment, movement of research personnel and movement of information.

We therefore welcome proposals to establish open network provision to cover equipment requirements, administrative procedures met by the traveller using telecommunication services while away from home and tariffs.

It is to be hoped that greater competition will improve the quality of the infrastructure available, and that the removal of regulatory barriers will encourage the introduction of services tailored to the needs of individual user communities where necessary.

In particular, we deplore the current variation and level of tariffs within the European community. Variation in charge for a single service can be by a factor of as much as five or ten between administrations, frustrating attempts to harmonize national research networking strategies, and the barrier to European communication is prohibitive. The cost ratio between national and European services is generally higher than that between access to the rest of Europe and to North America.

These ratios are clearly not based on cost of provision. The prospects for greatly increased research collaboration within Europe would be greatly increased by a rebalancing of tariffs to reflect costs, establishing a single tariff structure for wide area data transmission throughout Europe without national barriers.

**3. The need for a ubiquitous network**

The research community is not concentrated only in the traditional business centres. The European network infrastructure must cover all parts of the community, and provide a well managed and accessible service with a guaranteed minimum level of performance.

The moves towards rapid deployment of international ISDN are welcomed for the facilities they provide, but they do not represent a unique solution to the needs of the research community.

Access to the reliable digital services implicit in ISDN will assist many of the medium sized data transfer requirements, but parallel enhancements of complementary services will be necessary:

- a) the research community consists of a very large number of individuals, increasingly supported by personal workstations, in organizations and institutions of a wide range of sizes. Communication from these institutions will generally be via a single point, accessed by a suitable local network managed by the institution. The very large number of small pieces of information to diverse locations such a configuration generates are better handled by an extension of the existing public packet switched services; these also offer the prospect of a more rapid solution to current problems than does ISDN.
- b) at the other extreme, the research community has a small number of applications, such as supercomputer access, requiring significantly higher performance; growth of services in this area will become the limiting factor on progress. We believe that it is important that new services should be planned from the beginning on a European basis.

#### 4. The justification for some exclusive provision

We acknowledge the need for continuing control of some basic provision of telecommunication to ensure that a sufficient critical mass is maintained. However, we believe that the areas in which this control is applied should be kept to a minimum.

We note that one of the justifications for restriction is the very high cost of development of large telecommunication systems; an alternative to protecting the providers is to instigate steps to reduce these costs. We therefore welcome the steps under the Framework Programme, and specifically within Esprit, to develop engineering techniques for the more efficient development of large software systems; these will benefit European telecommunication sector, amongst many others within European industry, by improving our ability to create large software systems in a more cost effective way.

#### 5. The need for a strong standardisation policy

Academic users strongly welcome moves towards liberalization of the market for terminal equipment. However, from the user point of view, it is vital that the strategy maintains:

- a) a strong requirement for conformance to OSI standards for access to public telematic services, to ensure that interworking between equipment from different sources is maintained;
- b) a guarantee of interworking between new services and existing services so as to avoid fragmentation of the customer base. Thus, for example, great importance is attached to interworking between the current packet data networks and ISDN, and between the various evolutionary stages in the provision of message handling services.

These objectives can only be met if there are clear and timely standards for the attachment of equipment. We, as users, welcome moves to reduce delays in the production of standards; such actions will assist the introduction of new technologies. However, the first priority must be for the standards to be clear and technically precise, since standards of inadequate technical quality are counter productive.

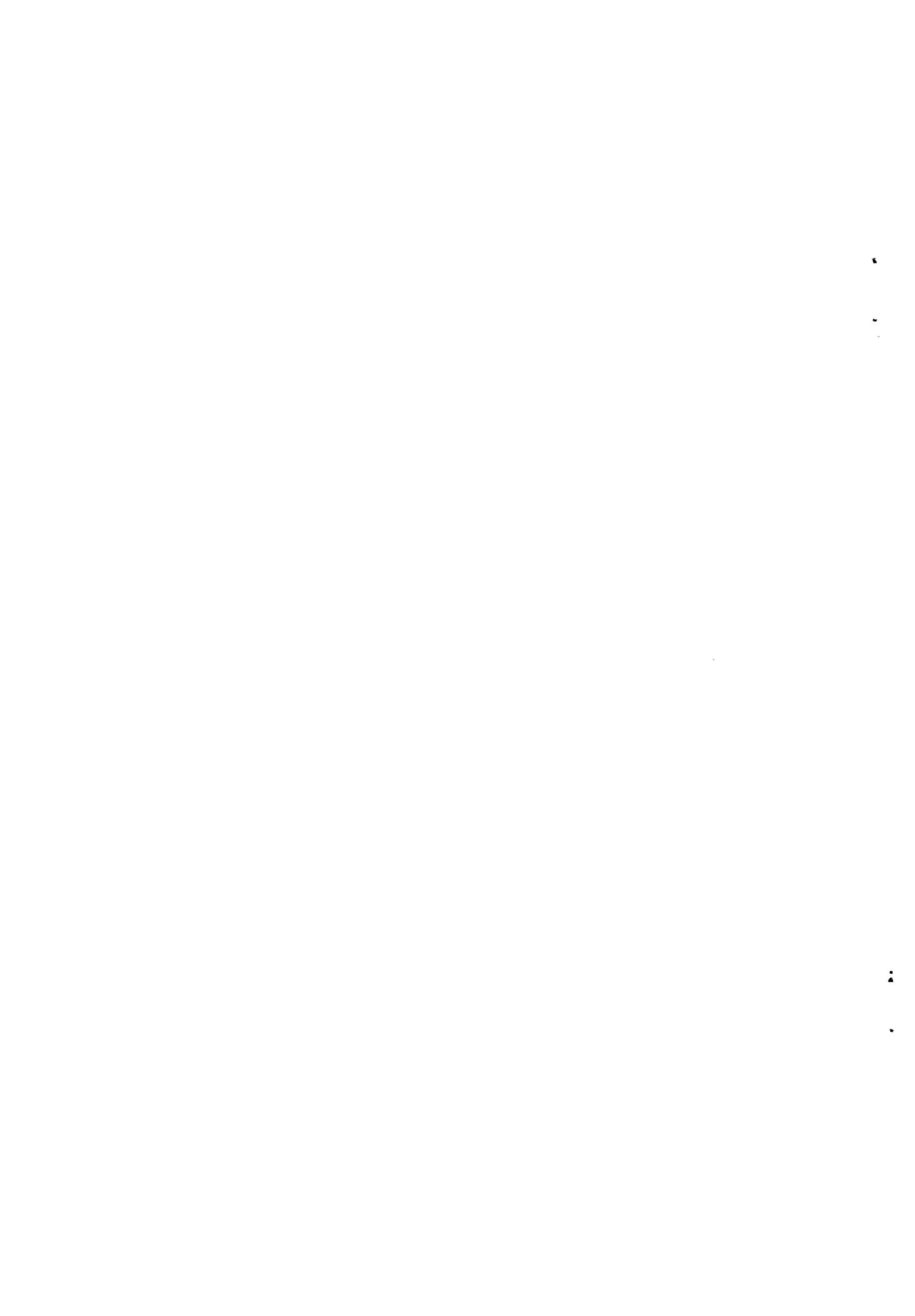
In particular, EARE welcomes the establishment of EWOS, and hopes that it will eventually become a focus for the full range Information Technology and Telecommunication standards; it is well placed to feed European views into the international discussions, allowing the creation of a genuinely world wide set of standards, not just a European one.

Furthermore, the standards should apply equally to all parties: the equipment suppliers, the carriers and the users. One of the main user concerns at present is with the variation of facilities and requirements in the offerings of the various European PTTs. If a strong standards policy is to be applied to the supply industry, it is only reasonable that the same policy should establish uniform minimum requirements of the PTTs.

The attainment of these requirements by the PTTs, particularly with regard to quality of service, needs to be subject to monitoring by an independent body. The results of such monitoring should be made public on a regular basis.

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Finally, the creation of a clear position on the access to public telecommunication services should in no way constrain, on a regulatory basis, attachment or performance of equipment connected to private local area networks, even where these are used to give access to public services. While standards in these non-public areas are important, their use when procuring equipment should be determined by users after consideration of the cost benefits to them.



**STATEMENT BY THE SOCIETY OF TELECOM EXECUTIVES ON THE EC GREEN PAPER ON TELECOMMUNICATIONS**

1. The Society of Telecom Executives (STE) is a member of the Postal, Telegraph and Telephone International (PTTI). It endorses the PTTI European Committee's statement on the green paper, as adopted by the Committee on 16-17 September 1987 in Madrid. The STE wishes to take this opportunity to enlarge on some aspects of the PTTI's statement, particularly those which arise out of the circumstances of the telecommunications sector in the United Kingdom.
2. The STE welcomes the green paper as a valuable consideration of the regulatory issues to be addressed by all those concerned with the future of the telecommunications industry in Europe.
3. The STE accepts the main thrust of the paper. The regulatory changes taking place in the member states must be co-ordinated so that the completion of the Community's internal market is not hindered. At the same time it will be necessary for the Community to set a framework for the development of a genuinely European market for telecommunications equipment and services.
4. The STE welcomes the Commission's recognition in the green paper that the exclusive provision by TA's of 'reserved' services is justified by the need to safeguard TA's financial health. The green paper accepts the case for TAs to maintain a monopoly of the voice telephony business (as is the situation in all member states except the UK). It also endorses member states' avoidance of 'extreme' cream-skimming. Nevertheless, it does not deal with the anomaly created by the British Telecom/Mercury duopoly in the United Kingdom. This is of special concern to the STE, as Mercury's 'cream-skimming' depresses BT's return on capital and leads to the selective rebalancing by BT of its tariffs for domestic consumers in contravention of its public service role.
5. In the discussion on cream-skimming on pages 75-76 of the green paper, the Commission takes no account of Mercury's rights to operate a voice telephony system in competition with BT and to interconnect with BT on favourable terms. These interconnect terms, being based on BT's marginal costs, do not reflect total costs and are thus a source of distortion in the network. The green paper appears to ignore the fact that, in the STE's view, Mercury is a licensed 'monopoly' cream-skimmer. This is an important lacuna in the Commission's argument in favour of removing differences in policies between member states so as to facilitate the provision of cross-border services. For, if Mercury is permitted to compete unfairly with BT in the United Kingdom, it could also cream-skin from other TAs in the Community in the event of TAs accepting obligations to interconnect with, and provide access for, cross-border services. A general obligation to interconnect is deemed essential by the Commission in order to bring about a competitive common market in telecommunications services. Yet the Commission offers no solution to the problem posed

by Mercury in relation to the voice telephony business of TA's in the Community. The STE believes that TAs should not be obliged to interconnect with Mercury.

6. The existence of Mercury has significant implications for the question of the discharge of social obligations which, the Commission accepts, should be incumbent on BT and other TAs. However, the green paper does not face up to the danger that continental TAs may be forced to respond to the challenge presented by Mercury by rebalancing their tariffs and standards of service in favour of business users and to the disadvantage of domestic consumers. Technical progress and the development of the common market must not come about at the expense of the domestic consumer. Moreover, the growth of the market of services and equipment would be inhibited, if domestic consumers were charged excessively high prices. This would be particularly so in the poorer parts of the Community.
7. A common market in telecommunications services cannot come about in an orderly way, if the financial viability of TAs is not sustained. In an increasingly integrated Community it will be the responsibility of the Community's institutions to maintain such a guarantee. The STE, therefore, calls upon the Commission to make appropriate proposals to ensure that the financial viability of the TAs is maintained through the effective prevention of resale of leased lines. Resale undermines the integrity of the network and poses a real threat to its financial viability. Any limitations placed on resale would also need to apply on an international basis.
8. The STE also recognises that TAs, as defined in Article 90 of the EEC Treaty, must adhere to the Treaty's provisions regarding fair competition within the common market, in particular Articles 85 and 86. However, in return TA's must be protected from any legal threat to their voice telephony business. Such protection might best be achieved by a Commission regulation giving TA's block exemption from Article 85 (1) of the EEC Treaty. Similarly, TAs will look to the Commission to ensure that operators of value-added services, in competition with TAs, do not hinder the development of TAs' services by threatening to invoke Article 86 in an irresponsible and unjustified manner.
9. The STE in general supports the Commission's statements on competition. However, we must emphasise that where competition is to exist, Telecommunications Administrations must be able to compete effectively. Similarly, the Commission needs to take account of the susceptibility of European providers of services and equipment to the threat posed by products from non-EEC countries. It should be borne in mind that in many of these countries there are no reciprocal arrangements for European product entry.
10. The STE sees the necessity for strong regulatory authorities in all the member states. However the form that this takes will depend on the different circumstances operating in different countries.

11. The STE understands that the Commission is considering undertaking a study of likely employment trends in the telecommunications sector in the light of the current changes towards increased digitisation. The STE would be pleased to contribute information to the study.
12. The STE would urge the Commission to examine the possibility of proposing the allocation of Community monies to the retraining of personnel in the sector. This might be done in various ways, including the creation of a special fund or the amendment of the criteria applied to disbursements from the Community's Social fund.



SHELL INTERNATIONALE PETROLEUM MAATSCHAPPIJ

COMMENTS

on

COMMISSION OF THE EUROPEAN COMMUNITIES

GREEN PAPER

ON THE DEVELOPMENT OF THE COMMON MARKET  
FOR TELECOMMUNICATIONS SERVICES AND EQUIPMENT



Most of the comments which follow are on the Commission's proposals in Figure 13 and for convenience we have used the same main paragraph letters. There are however a few general points we would like to make at the outset.

## 1 GENERAL COMMENTS

1.1 It should be said first of all that there are many parts of the Green Paper with which we wholeheartedly agree. The admirable brevity of the proposals may also have resulted in some of the apparent ambiguity to which we will make reference. Most of the other reservations we have are concerned with the practical application of the proposals rather than the principles. Our overall impression is that the problems with European telecommunications are generally well observed, that the proposed solutions are apt and that they should be applied with minimum delay.

1.2 There is one area which, in our view, is not adequately addressed in the Green Paper and that is the subject of tariffs, on which so much will depend. The Commission appears to regard usage sensitive tariffs as acceptable for leased circuits. It is difficult to reconcile the wish to bring tariffs closer to costs with a tariff method which is unrelated to the costs of provision. It is, however, interesting that the Commission evidently views usage sensitive tariffs as a kind of deterrent - at least in a voice telephony context. This, in our view, would be the inevitable effect of the application of such methods to the basic infrastructure, since value added services could not possibly thrive under such tariff conditions.

The Commission refers frequently to the "cream skimming" argument as an undesirable aspect of competition. This reflects the familiar argument of the monopoly suppliers but it is far less convincing to users - particularly the large users who bear the brunt of the burden.

The obligation to provide universal service is the excuse most frequently used to explain the existence of highly lucrative pockets of telecommunications Administrations revenues. Little is said about the disproportionate impact on the European business community and the heavy economic penalty created by the distortion of telecommunications tariffs. We support the view that it is the monopoly situation which creates the opportunity to generate the cream.

Much of the so called "cream" in European telecommunications is in the intra-European trans-border area on which the attention of the Commission might most fruitfully be focussed. The European Parliament and the Commission itself have in fact both drawn attention to the excessively high trans-border tariffs compared with the national tariffs. DG XIII's own Information Market publication number 47 contains an article which draws attention to the extraordinarily high levels of intra-European packet switching tariffs compared with national tariffs. This disparity is referred to quite rightly as a European "barrier factor"! A similar picture can be seen with leased circuit tariffs where the intra-European rates are disproportionately high in comparison with most national tariffs - and also with the Europe to USA rates. Rates from Europe to the rest of the world are also disproportionately high. The inevitable conclusion is that, in the absence of competition, the Administrations will continue to apply exorbitant tariffs on these vital trans-border links.

1.3 It is our firm view that tariffs must be related to costs of provision and we believe that this will most likely be the case in a non-monopoly market. The Commission might usefully address the question as to the most appropriate staging mechanisms for moving from the present anomalous structures in most of the Member States to a logical, cost based regime.

1.4 The Commission's frequent reference to the need to safeguard the financial viability of telecommunications Administrations seems at odds with the requirement to foster a truly European business dimension. Intra-European telecommunication is unquestionably one of the most profitable areas for Administrations. The business distortions thus created cannot readily be costed in aggregate although specific examples are legion and can readily be subjected to rigorous economic analysis. We contend that there is no doubt that these distortions are a significant barrier to the development of a unified European market. Of course the financial viability of the Administrations must be assured, but this should not be at the expense of European business as a whole. The questions are those of emphasis and priorities and the Green Paper seems on occasion to present a confused picture in this respect.

1.5 One last comment on this point of financial viability. Administrations, not just in Europe, are now (reluctantly) beginning to admit that they have not been the most efficient operators in a business sense. Examples are known where the Administration just does not know what is the true cost of providing specific facilities and services. They will admit that, even given the philosophical challenges posed by the integrated nature of telecommunications facilities, accounting practices are only now starting to be adopted which will identify costs and hence lead to vastly improved control and hence reduction in costs.

## 2 PROPOSED POSITIONS

### 2.1 Preamble

This appears to put the cart before the horse. Telecommunication is a means to an end not an end in itself.

From the Commission's own estimates (page 2 of Presentation) the telecommunications sector represented only 2% of the Community GNP in 1984 perhaps rising to 7% by the end of the century; i.e. by the year 2000 93% of the Community's GNP will be from other sources.

It follows that the primary objective should be to provide the European user with a broad variety of telecommunications services on the most favourable terms. The rest, including the strong telecommunications infrastructure, should clearly be seen as the means whereby this objective might best be achieved.

This change of emphasis is not semantic. Clarity in establishing the objectives and the priorities in the telecommunications area is of fundamental importance to the healthy development of the European economy.

#### A. Exclusive Provision of the Infrastructure

A.1 The arguments for exclusive provision and operation of the network infrastructure are unquestionably strong - at this time.

The Commission has rightly recognized that in one area at least (two-way satellite systems) the question of competitive provision needs further analysis and should be allowed under certain circumstances.

It would be unwise to grant exclusive provision on the rest of the infrastructure in perpetuity for the following reasons:

- \* Developments in terrestrial telecommunications technology are advancing too rapidly for the future to be seen clearly.
- \* To grant exclusive provision rights for ever would in effect be an act of preservation providing little incentive to introduce changes in infrastructure which could benefit the users and/or competitive suppliers of services.
- \* Much has yet to be learned from the experience of network competition in the U.K.
- \* The possibility of future competition, particularly on intra-European links, could provide a spur to improve the efficiency of the PTTs and to reduce the existing trans-border tariff barriers.

- \* The effectiveness of the Community's competition rules in the telecommunications area, though promising, remains to be proven.
- \* The possibility of future competition would provide an added and necessary safeguard against unfair practices and/or abuse of dominant positions.

It would therefore be prudent to leave the door open for competition in the infrastructure area should it prove necessary and/or provide better means of achieving the primary objective.

#### B. Exclusive Provision of a Limited Number of Basic Services

B.1 The Commission is to be congratulated for not perpetuating the fruitless debate on telecommunications boundaries (basic/value added etc). It is, in our view, correct in the opinion that voice telephone service should be the only one to qualify as reserved - and that even this should be subject to review. It is assumed that this exclusive right is not intended, and could not be extended to embrace private voice telephone networks. Nevertheless it is suggested that it should be made clearer that it is public voice telephone services which are referred to in this section.

The Commission is undoubtedly aware of services such as voice mailbox which add value to the public voice services. It is assumed that the Commission is not advocating that Administrations should have the exclusive provision of services of this type but this should also be made clearer.

#### C. Unrestricted Provision of All Other (than reserved as in B. above) Services.

C.1 The proposal to have unrestricted provision of all other services is applauded. We do however have the following concerns:

- \* Cross-subsidisation of different services by Administrations seems inevitable - particularly in an ISDN environment.
- \* Page 81 of the Green Paper refers to separate tariff offerings for "bearer" and "value added" components. It would be vital to ensure that Administrations and would-be competitors in the value added area would be offered the same tariffs for the bearer components. Some bulk purchase discounts might also be in order. Indeed one could argue an analogy with normal commercial practice which provides for wholesale and retail rates. In the telecommunications case, this would lead to one rate for, say, a 2 mb circuit for exclusive use by the lessee and another, lower rate for the same 2 mb circuit when used for the provision of value added services for resale.

- \* The conditions for the use of the network infrastructure (discussed under E. below) appear to leave room for anti-competitive behaviour by Administrations from which there seems little or no protection under the Community's competition rules.

Under these circumstances it is difficult to see how the benefits of true competition could be realized in practice - even bearing in mind the monitoring arrangements envisaged in paragraph H of Figure 13.

#### D. Standards for the Network Infrastructure and Services Provided by the Administrations or Service Providers of Comparable Importance

D.1 Community-wide inter-operability is a laudable aim and standards are a necessary element in achieving this goal. The Commission is also right to draw attention elsewhere in the Green Paper to the importance of international standards and the role of the CCITT in this connection.

As the Commission is aware standards can stifle as well as foster progress. It must be recognized also that standards can be (and indeed are) used as a competitive weapon. The users are inevitably the sufferers when standards are used to protect or extend the commercial interests of the standards makers.

The idea of a European Standards Institute appears attractive - but only if it will redress the existing situation where users are rarely consulted or given an adequate opportunity to comment.

D.2 In this context it is disappointing to note that the Commission's own record in consulting telecommunications users has, in the past, left something to be desired. The Council Recommendation on ISDN (86/659/EEC) - a subject of considerable interest to many users - refers to the favourable comments of the SOG-T and the CEPT but no mention is made of the users which ISDN is intended to serve.

#### E. Open Network Provision (O N P)

E.1 There must certainly be clear access conditions and therefore community agreement on the means whereby this can be made possible. It also seems likely that Community Directives would be necessary to ensure compliance.

If the process of developing these access conditions were to be independent from the Administrations then truly Open Network Provision could indeed become a reality. If however, as appears to be the more likely case, the Administrations would have a major - if not entirely dominant - role in the process then the network is likely to remain closed.

E.2 In calling for a clear separation of regulatory and operational functions (e.g. on page 185) the Commission quite rightly points out that Administrations cannot continue to be both referee and player (see also G. below). It further points out that regulatory functions concern in particular licensing, control of type approval and binding specifications, frequency allocations, and surveillance of usage conditions.

It is however not clear how the Commission proposes to separate these functions from the Telecommunications Administrations.

#### F. Unrestricted Provision of Terminal Equipment

F.1 This is happening already and is due in no small measure to the action of the Commission under the Community competition rules. It is a very welcome step in the right direction.

F.2 The proposal to have unrestricted provision of ROES is also welcomed but the need for type approval is not understood, unless this is meant to cover only the case where the user wishes to interconnect the ROES to the public network.

#### G. Separation of Regulatory and Operational Activities of Administrations

G.1 This seems ambiguous. It would appear that the Commission's intention is to remove the regulatory function from Administrations in which case the proposal is warmly applauded. It could however mean simply a separation of the regulatory and operational functions within an Administration which would achieve nothing.

G.2 We suggest that the establishment of tariff principles within the Member States should be removed from the exclusive mandate of the Administrations and placed with an independent regulatory authority.

It would seem necessary also that the regulatory bodies should represent their respective countries on regulatory matters at the international level (see J. below)

G.3 This proposal for separation of regulatory and operational activities is that on which all else hinges and it is vital that there should be a clear common perception of what is intended. The Commission appears to have in mind national regulatory authorities similar to OFTEL in the U.K. and if this could be made clearer then we would unreservedly support the proposal.

H.& I. No comment

J. Full Application of the Community's Common Commercial Policy to Telecommunications

J.1 There is no logical reason why the Community's common commercial policy should not apply now to telecommunications.

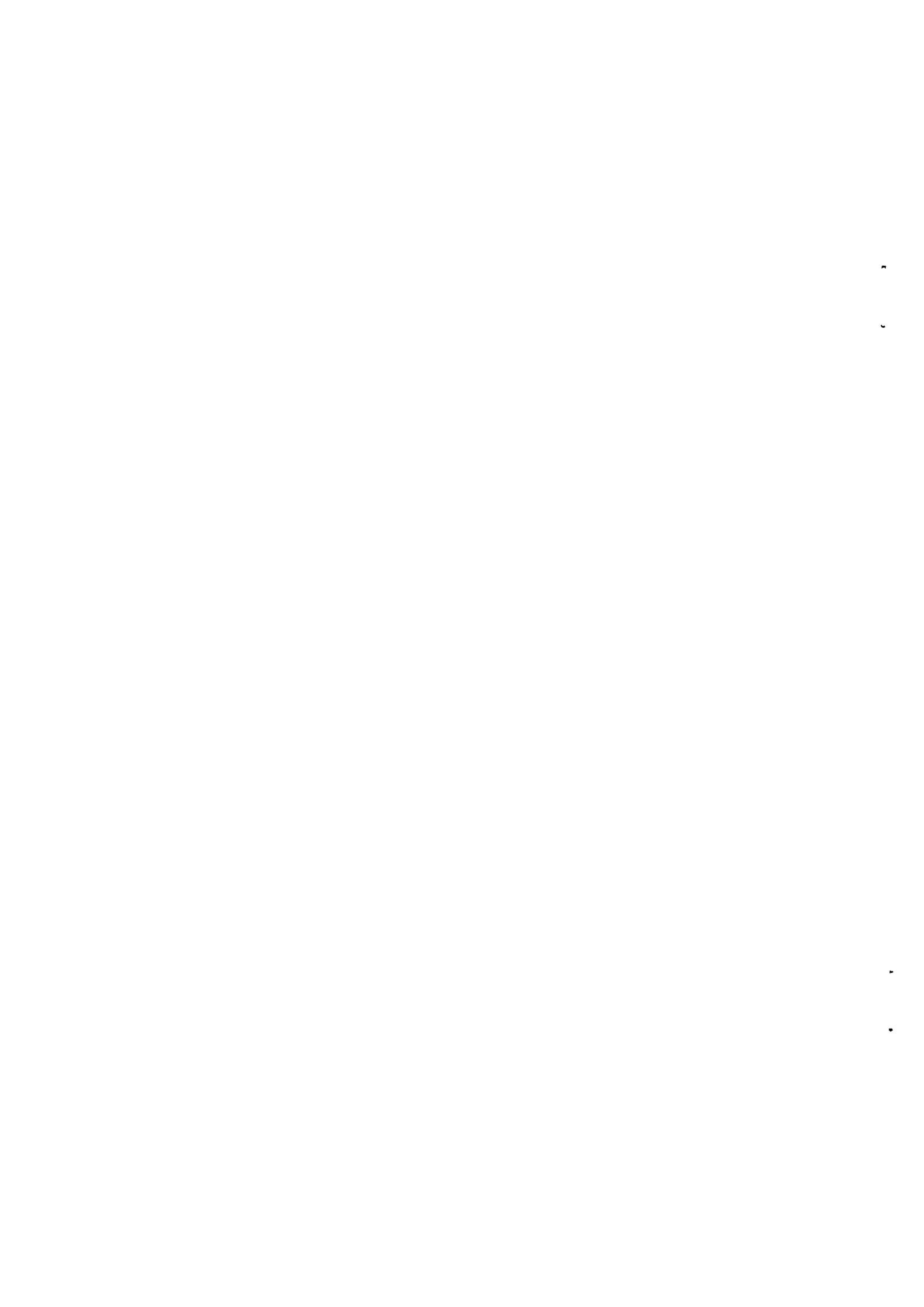
Regarding notification by Administrations of their foreign dealings: the problems in this area could be largely overcome by ensuring the right kind of representation at the international level (see G. above). In this connection particular attention is drawn to our comments under 3.2 below.

3 WATTC

3.1 In the last paragraph of Section 4.2 (page 172) it is stated that "the WATTC - 88 conference will have a major influence on the Community's external relations ....". This is rather puzzling as it is the individual Member States rather than the Commission (or the Community) who are the signatories to the ITU Convention and it would seem, therefore, that not only external but also intra-European relations would be affected.

3.2 The very last sentence of this same section refers quite rightly to the need for cooperation between the Member States in the preparatory work leading up to the WATTC. As the Commission is no doubt aware the preparatory work (of the PC/WATTC) is now at an end - an end which we believe to have been premature. Observers at the PC/WATTC have been struck by the obviously close cooperation between the CEPT member Administrations in that forum; this is in marked contrast to the clear lack of a coordinated position among the Member States. Indeed it is regrettable that, with the exception of the United Kingdom, the European representation at the PC/WATTC was from the Administrations. Here was a classic case of the players acting as referee and the results were entirely predictable.

The resulting draft Regulations produced by the PC/WATTC are, in our view, unnecessarily restrictive and indeed inimical to the interests of users. They are also in many respects diametrically opposed to many of the positions advocated by the Green Paper. It is therefore entirely fitting that the Green Paper does suggest that "The Community will therefore have to define a common position with regard to the conference and its preparation". We would urge the Commission to take the initiative at an early date to facilitate Member States arriving at such a common position. This would, if based on the principles propounded in the Green Paper, be more liberal than is presently envisaged in the Draft Regulations. We see this as being particularly important for the reason set out in paragraph 3.1 above.



CEC Green Paper on the Development of the Common Market for  
Telecommunication Services and Equipment (COM(87)290 Final)

A TEMA POSITION PAPER

Introduction

The Consultative Green Paper, COM(87)290, was published by the CEC in Brussels on 30 June 1987. Its purpose is to initiate a debate which, recognising the vital contribution of improved European telecommunications to the economic well being of Europe, will enable the Commission to consult widely and, by the end of 1987, generate plans for the achievement of :-

- a harmonised and competitive market for telecommunications services and equipment by the 1992 target date for completion of the single internal community market.
- a European telecommunications industry capable of competing with US and Japanese suppliers in both domestic and export markets.
- European telecommunications infrastructures and services that are vital to the achievement of European economic development and social policies.

The Current UK Environment

The Green Paper identifies the progress already made towards a competitive telecommunications environment in several member nations, especially in the UK. It recognises that the UK already has :-

- a liberalised and competitive equipment supply market (including the first telephone);
- a competitor to the principal Public Telephone Network Operator (PTNO), itself a private company rather than national agency;
- a series of General Licences for Value Added Data Services (VADS), and Branch Systems as well as a number of specifically licensed network operations.

There are, however, certain key features of the UK environment which are not individually mentioned, but which have a bearing on the view to be taken of the Green Paper by any UK based organisation.

The UK government's retention of 49% of the shares of BT until at least 1988 and their duopoly policy have led to decisions that :-

- Simple Resale of voice telephony using spare capacity on privately leased network lines is not to be allowed before 1989 at the earliest.

- No new PTNO will be licensed to provide basic voice telephony before 1990 in order to give the newer PTNO, Mercury Communications Limited (MCL), a fair chance to establish itself.

### The TEMA View

Against that background, and based on its experience over the last four years of the liberalised UK telecommunications environment, TEMA gives a warm welcome to the general approach suggested by the CEC - albeit implementation of all its suggestions would not take the Community beyond the stage of liberalisation already achieved in UK.

Some of the particular topics and proposals mentioned in the Green Paper are not covered in sufficient depth for all the problems and pitfalls to be exposed to scrutiny. It is, therefore on these areas that TEMA's detailed comments are centred.

### Policy Orientations

The policy orientations set out on pp. 14-15 of the Green Paper are accepted as valid goals. Insofar as it is widely accepted that, if the objectives for Europe are to be achieved, the telecommunications service must be universal in nature, the Public Telecommunications Administrations (PTAs) must have a central responsibility for the development and maintenance of the required network infrastructure.

This requires the regulatory arrangements to be such that the financial viability of PTAs' operations is assured be they a monopoly or, as in the UK, a duopoly.

The extent to which financial viability depends on the reserved right to be the sole providers of basic services and, in particular, voice telephony, is dealt with in more detail later. What cannot be over-emphasised is the need, recognised in the Green Paper, to ensure the integrity of network standards and inter-operability on a Community wide basis.

Equally, the Commission's declared intent to apply the competition rules of the Rome Treaty to PTAs' commercial activities as well as those of their competitors is an essential foundation for the development of a fair competitive telecommunications market.

It must also be stressed that one of the most important policy tasks is to create a regulatory environment which, whilst basically stable, is capable of further evolution as telecommunications continue to develop in the future.

In this respect, adequate definitions of the 'network infrastructure' and 'reserved services' are critically important and account must be taken of the implication of services which are or will be coming available, such as those of CENTREX ISDN and IBC, and of the growth of mobile radio, broadband cable networks etc.

Financial Viability of Infrastructure Networks

At several points the Green Paper addresses the problem of how the financial viability of PTAs is to be preserved. That must be achieved if even the most fundamental objective is to be attained and so that the funds are available for essential and costly investment in network infrastructure, particularly digital and broadband, without which neither the network, nor competitively supplied services, nor terminal equipments, will be developed at the requisite pace.

At the same time, the provision of a universal telephone service, based ultimately on common European tariffs, is recognised as an essential but costly social goal.

Against that background, the requirement for reasonable regulation to prevent 'cream skimming' can be accepted but there must be reservations as to the viability of the means proposed. The two main regulations proposed are :-

- the reservation of basic voice telephony i.e. the confirmation of the ban on voice resale;
- the introduction of usage based tariffs, sufficiently harmonised across national boundaries to prevent distortion in Community wide service provision.

The underlying weakness of both regulatory solutions lies in the growing introduction of digital technology and ISDN services. The identification of what is voice and what is data will become increasingly difficult and costly to undertake.

Moreover, the reservation of PTNO rights to operate 'basic services' needs to be balanced against their rights to operate more advanced value added services if they are not to attain such a dominant market position that effective competition in both services and equipment supply is stifled. Tariff structures could have a decisive role in achieving a fair balance.

A solution to this difficult, interlinked set of problems requires further and deeper study. Whilst there are understandable reasons for the statement in the Green Paper that the setting of tariff principles and rates is for each Administration to determine, the process of introducing compatible tariff systems which would encourage the introduction of competitive services would be much easier if the Commission were to take the lead in the necessary studies.

These studies will need to cover the distinctive needs of the three main sectors of use i.e. residential, small businesses and large businesses, for which separate tariff criteria may need to be applied.

Cross Subsidisation and its Prevention

The Green Paper recognises that limited cross subsidisation is a legitimate business tactic, indeed may be inevitable when a new product or service is being developed and launched.

In many undertakings, the costs of development are met from profits made in other business areas or from existing product lines. The practice becomes illegal only when, under the terms of Article 86 of the Treaty of Rome, a dominant undertaking abuses that position to engage in predatory pricing.

The Commission has powers to investigate suspected or alleged abuses but these powers can only be exercised effectively where the activities of the dominant undertaking, the telecommunications authorities in this case, are financially transparent. That would require, as a minimum, separately accountable business divisions.

Transparency will not be easy to achieve. In considering, for example, Centrex, or any value added service provided by the PTA using equipment embedded in the Public Switched Network, the regulatory or monitoring authority will need to be able to satisfy itself that the tariffs include an appropriate part of the cost of providing the installed equipment and its maintenance.

Even so, the determination of a truly cost related tariff may be unrealistic. If the PTNO is to be prevented from distorting the terminal equipment supply market, then the prevention of unreasonable cross subsidisation will need to be linked with a regulatory regime which allows other service providers to operate comparable and competitive value added services over the network, subject to the same basic cost terms as the PTNOs themselves.

#### Alternative Networks - Cable Systems

The Green Paper is unclear as to the future status of local cable systems and responsibility for their infrastructure. In the UK local area cable systems have been licensed on a basis which did not take account of basic telecommunications needs and thus the implications of integrating such systems into a national telecommunication service.

To enable such systems to be fully integrated into a national switched network, due regard needs to be taken of several factors including transmission performance and numbering plans. The impact that such systems could have in Europe needs further study for such systems, if licensed for telephony and data purposes, could play a part in the development of privately operated business networks.

#### Copyright and IPR, Fraud and Security

The Commission rightly draws attention to the problems that the expansion of electronic information distribution will exacerbate in the areas of copyright/IPR, fraud and security. Failure to find effective solutions to these problems will inhibit or retard the growth of services and diminish their overall economic effect.

Moreover, these solutions need to be applicable Community wide. TEMA therefore welcomes the Commission's intentions to identify and try to reduce divergences within the member states.

The External Dimension

Having welcomed the general thrust of the Commission's proposals to create an open Community market in telecommunications equipment and services, it is also necessary to add a note of caution. UK experience has shown that the very act of creating an openly competitive, coherent market, makes that market more vulnerable to import penetration, especially during the transitional phase. However, we do not wish to press for restrictions in international trade agreements to provide protection.

Actual abuses of these agreements should be disallowed. At the same time, the whole Community should press vigorously for removal of restrictions by our international competitors on access to their internal markets. Some means of achieving concrete reciprocity must be sought as a counter-balance to opening European markets to competition from outside.

It will also be necessary to ensure that the advantages of a single internal market are denied to overseas competitors who claim EEC status on the basis of cosmetic operations with little or no EEC added value.

Network and Service Boundaries

The paper rightly recognises that a stable natural boundary line between a reserved basic services sector and a competitive services sector is not possible.

For the reasons already stated in this paper, it is TEMA's view that a deeper study of this problem is required aimed at achieving a properly balanced solution that admits of future evolution. But that is not the only boundary problem.

The introduction in particular of digital technology also raises the question of defining the network electronic boundary. That in turn calls into question what constitutes network equipment and terminal equipment, to be supplied and installed by public procurement or competitive supply and installation, what standards regimes apply at and on each side of the Network Termination Point (NTP), how impairments are to be allocated.

It seems certain that a universal, permanent solution is not possible and the definition may need to change with each major technological advance. What must be recognised, however, is the crucial importance of universal adoption by the Community of the right definition at the appropriate time.

In this respect, it is of the greatest importance that full and careful consideration also be given to the problems related to the connection of approved equipment to the network, its installation and subsequent maintenance. Non-liberalisation of these activities can seriously undermine or undermine the competitiveness of liberalised supply.

Because of its enormous importance, the process of definition cannot be the prerogative of PTAs who could, perhaps unwittingly, use the definition to maintain or extend their monopoly position.

For these reasons, TEMA believes that, as a matter of urgency, the CEC should commission a study of this problem with the full participation of all interested parties. The aim of the study should be to derive an initial definition of NTP in a digital network and to set down principles by which future redefinition can be evolved as technology progresses.

Having regard to the need for that work and the other studies which TEMA believes to be necessary, it is clear that an enormous effort will be required by all concerned to achieve the objectives envisaged in the Green Paper. That effort will be of no avail if there is not also set up a means of further developing in the future an environment which maintains coherence of approach.

This will need an ongoing specialist regulatory body with appropriate terms of reference and duties. We believe such a European Telecommunications Regulatory Authority to be an essential requirement.

#### Standards Making and Equipment Approval Procedures

The Green Paper deals at length with the problem of standards making and harmonised approval procedures and recognises the pivotal role that these activities play in the creation of a common market in telecoms equipment and services.

It recognises the complexities and shortcomings of the present procedures and the importance of accelerating the standards making process if the 1992 target is to be met. The Commission therefore proposes substantial reinforcement of the development of standards and specifications, and the creation of a European Telecoms Standards Institute (ETSI). Based on the current co-operation of the PTAs within CEPT and with CEN/CENELEC, the jointly financed ETSI would have a small cadre with the ability to draw on experts from both PTAs and industry.

TEMA notes the parallels with the situation in the UK where, at the early stages of liberalisation, it was recognised that standards making and approval procedures for interfaces and terminal equipment could not be left to the control or dominant influence of BT, if the aims of fair competition and liberalisation were to be met.

In this respect, it is necessary to recognise that three distinct types of standards are involved :-

1. Public network standards, particularly those designed to prevent harm to the network, injury to individuals, and interference to other users.
2. Standards for Information Technology attachments and services.

3. Standards for Telecommunications attachment products and services.

Network standards must be the responsibility of the PTNOs and to achieve universality throughout the Community, CEPT has a vital role to play. The objective of their activities must be for the networks to present to attachments unambiguous consistency in respect of interface criteria.

With regard to standards for attachments, be they telecommunication or information technology products, the responsibility cannot be that of the PTNO alone. In certain areas they are not even the most expert in the field.

In the UK, the standard making task for attachments was entrusted to BSI an independent body whose work is complemented by a further, equally independent watchdog body - OFTEL. OFTEL itself can, when necessary, produce standards and is responsible for producing Codes of Practice.

The major PTNO, British Telecom, continues to have a pivotal role in the definition of a base standard for the network and a strong but not over-riding influence on the definition of interfaces and standards for terminal equipment, of which it is just one competing supplier.

Furthermore, in the UK it was found necessary to cater for situations where standards were not available in good time or were not sufficiently comprehensive for new product testing. This resulted in the creation for use by the independent British Approvals Board for Telecommunications (BABT) of the 'Special Investigation Test Schedule' (SITS) procedure which effectively has eliminated the problem of lack of availability of standards.

It is agreed that there is a need to achieve and maintain Community-wide interoperability of services and terminal equipment. To achieve this there is a need for harmonised standards for interfacing to the services and for attachment to the networks of terminals which can apply those services. This principle applies in the context of both reserved and competitive supply of services.

It is noted, however, that over-specification in general and in particular of attachment requirements adds unnecessary product costs and will inhibit innovation. This must be avoided.

TEMA members are convinced that the essential foundation for fair competition in a liberalised European telecommunications market is a truly independent standards authority. Just as the Commission recognises that there needs to be a clear separation of regulatory and operational functions, so too it should recognise that PTNOs cannot be both referees and players in standards setting and approvals.

If the process of standards setting is dominated or unduly influenced by CEPT then it is inevitable that CEPT members have the power to dictate the progress and extent of liberalisation.

TEMA is strongly of the view that the principles underlying the UK model with its independent standards setting and approvals bodies, suitably modified to reflect other national and community organisations, should be applied to the creation of ETSI, which should have strong links with, but not be controlled or unduly influenced by, existing organisations such as CEPT and CEN/CENELEC.

TEMA urges the Commission to consider alternatives to the current CEPT proposals for ETSI and suggests that a consortium established by member governments with representation from PTNOs, industry, users and the CEC may be an appropriate body to control the formulation and administration of standards.

Whatever form of standards making body emerges from that further consideration, the imposition of another layer on existing standards making procedures will not help the position, and could impose an intolerable burden on Europe's already over-burdened standards experts.

To reduce that burden, it is suggested that ETSI's activities should be confined to new digital products and that they should not dissipate their energies on established analogue products. It is further suggested that against agreed criteria the ETSI would take over such responsibilities from the national standards institutions, thereby eliminating wasteful duplication of effort.

TEMA also believes that if European standards are to become effective within the necessary timescale, the ETSI and/or the Regulatory Authority we propose, should have the authority to impose a solution in the absence of consensus.

#### Numbering Plans and Signalling Systems

In dealing with the topic of interconnection of networks - particularly in the context of cross border provision of services - the Commission recognises the need for PTAs to accept clear obligations to provide access to competitive service providers. But obligation is not confined to that area, it also applies to inter-connection between alternative networks, perhaps competing PTNOs as in the UK, or in course of time, cable networks.

Moreover, the mere setting of regulations in place and the adoption of compatible technologies and interface standards such as OSI in particular, will not be sufficient of themselves to achieve fully viable interconnection working.

The generation of a fairly based, coherent numbering plan and customer-to-network signalling system is also required. No amount of hi-tech equipment will encourage the user to attempt to use alternative networks if it is not equally convenient to gain access, or if a range of different conditions apply to the called party depending on the route or network chosen.

The process of generating a coherent numbering plan is complex but it is one that needs to be tackled if the full benefits of future developments are to be realised. The extent of what needs to be done is, of course, dependent on the final form of network which is envisaged and how it is expected to develop.

#### A Regulatory Authority

The need for a regulatory authority has already been touched upon in earlier sections of this paper. TEMA's experience of liberalisation in the UK market leaves it convinced that the fundamental pre-requisite for effective fair competition is a regulatory authority wholly independent of the PTAs.

The Green Paper does not indicate whether such an authority will be established and, if so, what will be the role of national regulatory authorities.

Neither the US Federal Communications Commission nor the UK's Office of Telecommunications (OFTEL), provide an ideal model for a European regulatory authority. For just as their role and powers are set in the framework of Federal or National legislation, so the European authority would need to work within the framework of Community law. Its relationships and modus operandi with the CEC, particularly DGs XIII and IV, would need to be defined and that will require detailed study and consultation.

Whatever arrangements emerge from that study, it is essential in TEMA's view that the regulatory authorities have the power to prevent potentially anti-competitive activities by action before abuse occurs, rather than applying sanctions afterwards.

TEMA believes this to be a particularly important safeguard for small to medium size undertakings for whom short term damage may be too severe for them to survive.

#### Conclusion

Rather than attempt to summarise the views expressed above, this conclusion briefly details TEMA's stand on each of the Proposed Positions set out in Figure 13 of the Green Paper.

- A. TEMA accepts the need for continued privileges for PTAs regarding public network infrastructure provision and operation and strongly supports the need for safeguarding its integrity. The definition of 'network infrastructure' however, needs careful and continuing refinement.
- B. TEMA accepts the need for PTAs to be able to ensure the financial viability of infrastructure networks and therefore the need to prevent cream skimming of their revenues.

It questions, however, whether the reservation to the PTAs, even on a narrowly defined and temporary basis, of the right to exclusive operation of the voice telephony service is justified, desirable or practical. It recommends a deeper study of that privilege and their right to enter the competitive service sector in order to evolve a properly balanced solution.

- C. TEMA supports the unrestricted competitive provision of all services, subject only to the qualification in B above.
- D. TEMA recognises and supports the need to maintain or create, community wide inter-operability and therefore for there to be harmonised standards for that purpose. These should not, however, be so framed as to discourage innovation.

Based on its experience in the process of liberalisation in the UK, TEMA emphasises that an independent standards making body is a fundamental pre-requisite for a liberalised and openly competitive market. TEMA therefore urges the Commission to consider the means by which such an independent body can be created.

- E. TEMA agrees the need for clear definition, by Directive, of the general requirements for infrastructure provision and interconnection/ access arrangements and of the need for a Community led study on the definition of a Network Termination Point.

It also draws attention to the need for a coherent numbering plan and customer-to-network signalling system in the pursuit of effective and economic inter-operability.

- F. TEMA strongly supports the open, competitive provision of terminal equipment on a Community wide basis, but sees no reason why that should not also apply to the first telephone. Reservation, even on a temporary basis, of the right to supply the first telephone will sustain existing monopoly powers.
- G. TEMA strongly supports the need for the separation of the regulatory and operational activities of PTAs and considers that there is a need for a European Telecommunications Regulatory Authority.

H&I. TEMA accepts the need for the activities of both PTAs and emergent providers of network services to be subject to continuous and strict review in order to avoid abuse of dominant market positions.

- J. TEMA would welcome the full application of the Community's common commercial policy to the telecommunications services and equipment market. Coupled with the welcome is the caution that, particularly in the transitional stages, the growth of a coherent Community market will render it more vulnerable to import penetration and some safeguarding may be required whilst arrangements for true reciprocity are negotiated.

As a final comment, TEMA believes that change must take place and that greater regulatory coherence must come about throughout the Community. The concepts set out in the Green Paper, taken as a whole, should achieve the desired purposes but there are many topics which require further detailed study.

Moreover, any changes need to be carefully co-ordinated since their purposes and effects are interdependent. As a simple but crucial example, the absence of suitable standards at the right time would be a major impediment to progress in other areas.

Thus, a fully timed implementation plan needs to be evolved which takes account of both the further preparatory work needed and the interdependencies of the changes to be made.

These changes need to be introduced in an evolutionary and well understood manner so as not to create a destabilised situation, even on a temporary basis. Such a situation would not only impede the proper development of telecommunications in the Community but could also threaten the survival of important elements of manufacturing industry who have such a vital contribution to make.

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**CEC Green Paper,  
comments by the Swedish Telecom Administration**

**Summary**

Swedish Telecom considers that the Green Paper gives an excellent presentation of the international development trends and gives its general endorsement of the main thrust of the proposals presented.

**Background**

Before presenting some more detailed comments, a few characteristics of the Swedish situation should be emphasized. A basic fact is that there has never existed any legal regulation of the right to conduct telecommunications activities in Sweden. Thus there is neither any statutory monopoly for Swedish Telecom on the installation of networks and the provision of telecommunications services, nor any legal regulation of the right to provide telecommunications based services. No legal definition has consequently been needed for "basic" or "value-added" services which is a thorny issue in other countries. Swedish Telecom has been able to cooperate with other actors to develop services in areas which could otherwise have been subject to conflict.

This has been based on the tacit conviction that the public interest is best served by an administration which is not prevented from entering markets outside the traditional basic services. Swedish Telecom has achieved a dominating market position. The essential rules governing the Swedish telecommunications market have thus been the rules for access to and use of the public network. These rules have been relaxed step-by-step during the 1980s.

Further, postal and telecommunications services have always been separated. Swedish Telecom has never been obliged to subsidize postal operations nor other activities under the state budget. It has however an obligation to provide basic public telecommunications services nationwide. Like in almost all other countries, there exist substantial internal subsidies inside the telecommunications system. The imbalance between tariffs and costs has been recognized as a fundamental problem. Government and Parliament have endorsed a policy of gradual rebalancing in order to forestall a serious deterioration of the economic situation through creamskimming.

The terminal market has been liberalized in steps. The only remaining items are high-speed voice-band modems, which will be liberalized on 1 March 1988 and PABXs which are expected to be liberalized during 1988-89, pending Parliamentary approval.

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The thrust of the decisions made by Government and Parliament since 1980 has been to give Swedish Telecom better and more flexible conditions for its activities and to liberalize the market for equipment and services and at the same time to create safeguards against abuse of its dominant position. Since 1981 Swedish Telecom is required to keep and publish separate accounts for expenses and earnings of its operations exposed to competition. The national Audit Bureau examines these separate accounts. A set of new proposals are at present under consideration by the Government. They are based on considerations which are well in line with those of the Green Book.

### Comments on the proposed positions in the Green Book

#### **Position A**

There is no exclusive provisions or special rights for Swedish Telecom regarding the network infrastructure. We continue to believe that the integrity of the public network infrastructure can be safeguarded provided all actors in the market are given equal conditions for competing in the marketplace.

Competitive offering of two-way satellite communications systems is under active consideration by the Swedish Government.

#### **Position B**

There is no special right for Swedish Telecom to provide voice telecom service. But Swedish Telecom has an obligation to provide telecom services in general. There is, at the moment, no precise definition of this obligation. Whether customers use their telephone network access for voice, facsimile, data transmission or a combination of these is entirely their choice. It is not even known by us. All terminals, including the first telephone set, are supplied on an open market. Swedish Telecom has however an obligation to deliver a standard telephone set with guaranteed performance and at the same price all over Sweden if the customer so desires.

#### **Position C**

The provision of all other services is already liberalized.

#### **Position D**

Swedish Telecom is applying international standards for network infrastructure and services to the extent that they exist in order to ensure international interoperability. It is in the interest of our customers that the widest possible choice is provided. Swedish Telecom is a firm supporter of the efforts to create a pan-european digital mobile telephone system.

The Nordic cooperation in the creation of a joint data network (Datex) and a joint mobile telephone network (NMT) could be seen

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as precursors for wider European efforts. We have in CEPT taken the initiative to start planning for the joint European introduction of switched digital networks.

Swedish Telecom is making strong efforts to participate actively in the RACE MAIN programme.

#### **Position E**

The need for clear definition of the general requirements imposed by Swedish Telecom on providers of competitive services for use of the network has been recognized. We have so far, in accordance with CCITT recommendations, not allowed straight third party resale of leased line capacity. Such restrictions are however increasingly difficult to uphold and Swedish Telecom has declared its intention to open for third party traffic as soon as the tariff/cost relationship has been rebalanced. This proposal is under consideration by the Government. Swedish Telecom does not have the intention to introduce usage-related tariffs for leased lines.

Interconnect and access conditions should in our opinion be dictated by commercial considerations.

We do support an intensified international effort to provide standards. To this end we take active part in TRAC and the efforts to create a European Telecommunications Standards Institute.

#### **Position F**

Swedish Telecom supports the creation of an open terminal market. We expect to join in an international scheme of mutual recognition of type approval.

#### **Position G**

A proposal for separation of regulatory and operational activities and the transfer of the former to a separate agency is already under consideration by the Swedish Government. It is vividly supported by Swedish Telecom.

#### **Position H**

The Swedish government has imposed on Swedish Telecom the requirement that competitive activities must not be subsidised from other activities. To this end they must be accounted separately or carried out in the form of joint-stock companies.

#### **Position I**

All actors in the Swedish market including Swedish Telecom, are subjected to general laws on fair competition. This is in order to avoid the abuse of dominant positions.

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**Position J**

Sweden has advocated the notification in GATT of all rules which may affect competition.

**Conclusion**

Swedish Telecom's basic philosophy is that the development is best served by an open competition on commercial terms in the marketplace, not by restrictive rules which tend to be outdated quickly. The costs of any legitimate deviations required by public service objectives should be borne by all actors. A major problem is the skewed tariff/cost relations, both internationally and domestically. The accounting rates must be rebalanced in the international organisations in order to avoid sending false signals to the market.

Swedish Telecom is seeking improved cooperation internationally and in particular with the EEC in order to seek truly pan-european solutions. The telecommunications market would benefit from such closer cooperation.

3.12.1987

## LIVRE VERT DE LA COMMISSION EUROPEENNE SUR LES TELECOMMUNICATIONS

(COM 87-290)

### COMMENTAIRES DE L'UNICE

#### INTRODUCTION

L'UNICE appuie énergiquement l'objectif du Livre Vert de la Commission, qui est d'instaurer une concurrence saine et ouverte sur le marché des télécommunications partout dans la Communauté, de manière à créer l'environnement requis pour le développement d'entreprises européennes performantes et compétitives au plan international.

L'UNICE n'a pas jugé utile de faire un commentaire détaillé, point par point, du Livre Vert. Le but du présent avis est plutôt de mettre en évidence les matières sur lesquelles la Commission devrait réfléchir en vue d'éviter que des difficultés ne surgissent dans la suite, en raison d'ambiguïtés et de malentendus. Là où cela a été possible, l'UNICE a esquissé à l'intention de la Commission l'approche qui lui paraît la plus indiquée pour traiter les problèmes identifiés, en tenant compte de la réalité des régimes de télécommunications actuels dans les Etats Membres.

Bien que les commentaires présentés ci-dessous portent sur l'industrie de la Communauté et des Etats Membres, les Fédérations membres de l'UNICE des pays communautaires et non communautaires ont adopté le présent document et approuvent l'idée que toute politique européenne des télécommunications doit inclure les Etats non membres de la CEE représentés au sein de l'UNICE.

#### DEFINITIONS ET CONCEPTS DE BASE

##### Infrastructure de télécommunications

L'UNICE accepte la conclusion de la Commission que les Administrations nationales des télécommunications (a) ont besoin d'un certain degré de protection leur permettant de financer la fourniture de services de télécommunication socialement souhaitables, mais qui ne sont pas nécessairement économiquement viables. Toute protection du droit des Administrations à fournir l'infrastructure de base du réseau devrait être limitée, aux yeux de l'UNICE, à la fourniture des infrastructures de télécommunications. Ceci appelle une définition claire et non ambiguë de la notion d'infrastructure de télécommunications. Cette définition devrait être périodiquement réévaluée pour tenir compte du progrès technologique et en particulier de l'évolution vers une infrastructure numérique.

- (a) Aux yeux de l'UNICE, ce terme, bien qu'il soit systématiquement utilisé dans le Livre Vert et dans le présent document, peut induire en erreur étant donné qu'il évoque une activité gouvernementale ou soumise au contrôle d'un gouvernement. En fait, ce terme désigne tout fournisseur et opérateur d'une infrastructure de réseau public.

L'UNICE constate que, dans certains pays, on désigne par "infrastructures de télécommunications" uniquement les infrastructures pouvant prendre en charge des communications bidirectionnelles, ou interactives, ce qui exclut les infrastructures utilisées dans le seul but de fournir les services suivants :

- télémesure unidirectionnelle,
- diffusion TV par câble en mode unidirectionnel,
- télétext,
- toute émission unidirectionnelle d'ondes radio ou d'images télévisées, même lorsque l'information transmise est codée de façon à ne pouvoir être captée que par des groupes fermés d'utilisateurs.

A l'inverse, certains Etats-Membres réglementent l'ensemble ou une partie des activités reprises ci-dessus.

En définissant l'infrastructure des télécommunications, la Commission doit avoir le souci d'éviter d'introduire des distorsions dans le développement naturel des infrastructures requises pour les communications interactives modernes. Ceci pourrait être le cas si l'on fixait des définitions poussant les fournisseurs potentiels de services à concevoir leurs systèmes en privilégiant le souci d'échapper à la réglementation au détriment du développement des techniques interactives avancées. L'exclusion des systèmes unidirectionnels pourrait stimuler de tels développements indésirables.

L'UNICE souhaite également que :

- tout droit réservé des Administrations des télécommunications concerne uniquement la fourniture de services sur les réseaux publics et que
- les droits spéciaux accordés aux Administrations des télécommunications pour la fourniture de certains services ne permettent pas l'intrusion de ces Administrations sur les réseaux privés (que ceux-ci incluent ou non certains éléments fournis par une Administration des Télécommunications). Ceci nécessitera de délimiter clairement les réseaux publics et les réseaux privés.

#### Les services porteurs et les services d'application

L'UNICE note que, dans l'environnement actuel des télécommunications analogiques, le client associe l'infrastructure avec le "service porteur" fourni par l'Administration des Télécommunications et avec le "service d'application" qui peut être fourni par l'Administration ou par un autre prestataire de services. C'est ainsi que les services d'application constitués par le téléphone et le télex sont fournis au moyen d'infrastructures physiquement distinctes (au moins au niveau des lignes de raccordement) et impliquant par conséquent des "services porteurs" également distincts (bien que techniquement assez semblables).

Dans l'environnement RNIS cependant, l'infrastructure et les "services porteurs" seront communs à tous les services d'application. Il est dès lors essentiel que les réflexions de la Commission sur la notion de droits réservés pour la mise à disposition d'infrastructures (notion qui implique, pour les Administrations des Télécommunications, le devoir de fournir des "services porteurs") ne soient pas mêlées à ses réflexions sur la réservation éventuelle de certains "services d'application" à ces Administrations.

#### Les services de base ou réservés

La définition des services de base, ou réservés, donnée par le Livre Vert et qui sera reprise dans les propositions législatives ultérieures devrait être limitative et non susceptible d'être élargie par les Etats Membres en vue d'étendre le champ des services réservés aux Administrations nationales. La définition initiale de cette notion de services réservés soulèvera sans aucun doute des questions épineuses de politique. L'UNICE appuie l'objectif de la Commission d'introduire la concurrence sur la plus large échelle possible.

La révision envisagée de la définition des services de base, ou réservés, (quelle qu'en soit la définition adoptée au départ) ne devrait pas permettre un élargissement de l'éventail de ces services, mais uniquement de réduire ou de maintenir cet éventail initial. Si la Commission décide d'inclure d'autres services que le service téléphonique vocal dans la définition des services réservés, l'engagement devrait être clairement pris d'éliminer ces exceptions selon un calendrier court et bien défini.

#### Services reposant sur les satellites

L'UNICE estime que l'utilisation des satellites à des fins de télécommunication devrait être considérée de la même manière que l'utilisation de lignes terrestres et donc être réservée aux Administrations des Télécommunications. Une approche au cas par cas pourrait conduire à des inconséquences et créerait un climat d'incertitude.

#### Le point de terminaison du réseau

Un élément essentiel pour assurer la création et le bon fonctionnement d'un marché ouvert des terminaux de télécommunication sera l'établissement d'une définition claire et certaine du point auquel le réseau s'arrête et où l'équipement terminal fait son apparition. Il convient d'empêcher que le réseau d'un opérateur n'empiète sur le domaine considéré, pour des raisons objectives, comme constituant l'équipement terminal. Similairement, l'utilisateur ou le fournisseur d'équipements terminaux ne devrait pas être autorisé à repousser les limites du réseau à l'intérieur du domaine correctement pris en charge par l'opérateur du réseau.

### Équipement terminal

Il devrait être précisé de manière tout à fait claire que toute liste d'appareils constituant un équipement terminal (comme par ex. celle présentée au tableau 8 du Livre Vert ) est illustrative et non exhaustive. Les Etats Membres préoccupés de défendre des intérêts nationaux ou sectoriels étroits ne devraient avoir aucune latitude de limiter l'ouverture du marché des équipements terminaux en excluant du champ de la législation nationale des équipements qui n'ont pas encore été pris en considération, tels que des appareils à caractère innovateur.

### Transition progressive

La Commission devrait examiner la nécessité éventuelle d'introduire certains aspects de sa politique par étapes successives, dans le but d'assurer une transition ordonnée ménageant les intérêts des utilisateurs, des fabricants (spécialement ceux de petite et moyenne taille), des nouveaux compétiteurs de dimension modeste faisant leur entrée sur le marché des services et des équipements, et des Administrations des Télécommunications. De tels arrangements devraient être définis clairement à l'avance, pour maintenir un environnement suffisamment stable. Un environnement insuffisamment certain serait préjudiciable pour toutes les parties concernées.

### NORMALISATION ET CERTIFICATION

#### La nécessité d'agir

L'objectif de disposer en 1992 d'un marché européen concurrentiel implique, entre autres, l'adoption accélérée de normes européennes aussi bien dans le domaine des télécommunications que dans celui des techniques d'information. L'UNICE insiste donc sur la nécessité d'intensifier les activités de normalisation européenne, au détriment des normalisations nationales, en augmentant simultanément la vitesse de la préparation des normes et la rapidité de leur adoption en Europe. Le but final de la normalisation européenne devrait être son intégration internationale et la reconnaissance mondiale.

#### Les participants

La participation à ce travail important pour l'Europe devrait être ouverte à tous les groupes d'intérêt concernés : les Administrations des Télécommunications, les fabricants d'équipements, les utilisateurs et les prestataires de services. Le rôle des organismes de normalisation est d'organiser la coopération des parties intéressées.

L'UNICE appuie l'avis de la Commission prônant que la réalisation de ces objectifs dans un délai et avec un volume raisonnables nécessite, d'une part, d'augmenter considérablement les ressources humaines et financières consacrées à la normalisation européenne en télécommunications et en techniques d'information et, d'autre part, de mieux structurer une coopération active entre les administrations, les producteurs et les consommateurs.

L'UNICE insiste particulièrement pour que les producteurs et utilisateurs industriels puissent collaborer aux décisions et à la programmation de cette normalisation et participer au vote final des projets de normes.

Il importe cependant d'éviter de multiplier le nombre d'organismes effectuant des travaux parallèles à celui de l'élaboration des normes. Le nombre d'experts industriels disponibles pour participer aux travaux techniques est en effet limité et impose l'exclusion de tout double emploi.

Le travail actuel de normalisation devrait dans l'avenir être organisé davantage en se basant sur des groupes de travail "ad hoc" très spécialisés se réunissant avec un mandat bien défini pendant une période limitée en vue de produire un projet de norme spécifique.

### Organisation

Dans ce contexte, et étant donné la convergence croissante entre les technologies de traitement, et de transmission d'informations, l'UNICE est d'avis que les fonctions remplies dans ce domaine par le CEN/CENELEC et la CEPT devraient être étroitement coordonnées, une distinction claire entre les technologies de l'information, d'une part, et des télécommunications, d'autre part, étant de plus en plus difficile à établir. L'ITSTC effectue déjà une coordination CEPT/CEN/CENELEC, mais cet arrangement pourrait nécessiter des améliorations.

L'organisation pour l'élaboration des NET's, normes et prénormes européennes doit être simple, souple et bien définie et permettre d'atteindre, dès que possible, les objectifs suivants :

- assurer une interopérabilité complète et mondiale au niveau des réseaux garantissant des connections dans le monde entier pour chaque usage utile et au meilleur rapport performances/prix;
- assurer une compatibilité complète des terminaux avec les réseaux et les services porteurs avec lesquels ces terminaux sont destinés à travailler;
- conduire à une économie d'échelle pour les fournisseurs industriels, les exploitants des réseaux et les prestataires des services.

L'UNICE est d'avis que :

- Les Instituts Européens de Normalisation qui constituent le CEN et le CENELEC conviennent pour la préparation de normes et prénormes européennes (EN et ENV) pour autant que leur structure et leur programme de travail soient renforcés;
- l'initiative prise par la CEPT - dans la foulée du Livre Vert - de créer dans un futur proche, un Institut Européen des Normes de Télécommunications (ETSI) est acceptable pour autant que :

- ° les fabricants et les utilisateurs soient pleinement associés à la définition des normes
- ° l'Institut fasse partie de la structure européenne de normalisation (la création d'EWOS dans cette structure constitue une illustration du type de démarche à suivre).

Les travaux devraient être effectués par des experts techniques en dehors de l'Institut et se baser sur les ressources disponibles, dans le domaine des technologies de l'information et des télécommunications, au niveau du CEN/CENELEC, de la CEPT, de l'ECMA, d'ECTEL et éventuellement d'EWOS.

Les activités de normalisation dans le domaine des technologies de l'information doivent faire l'objet d'une coopération très étroite étant donné que les développements intervenant dans ce domaine et dans celui des télécommunications ne peuvent pas être considérés séparément. L'élaboration de normes en vase clos au sein de différents organismes doit être évitée à tout prix.

## L'OPEN NETWORK PROVISION - ONP (L'OFFRE D'UN RESEAU OUVERT AUX UTILISATEURS ET PRESTATAIRES D'UN SERVICE)

### Introduction

L'ONP est vue comme un pilier essentiel d'un environnement de télécommunications conçu pour favoriser l'offre de services concurrentiels dans toute l'Europe, permettant par là de stimuler l'économie de la Communauté. Pour réaliser cet objectif, il sera nécessaire que les fournisseurs de services jouissent d'un accès transfrontières aux services de réseau et que ces "services de base" soient d'un niveau comparable dans tous les Etats-Membres.

La mise en place de l'ONP dépendra de la résolution de problèmes majeurs qui peuvent être regroupés en 4 catégories principales :

### Services de réseau

Il faudra se mettre d'accord sur les installations qui forment l'infrastructure de base du réseau, laquelle, d'après le Livre Vert, pourrait continuer à être fournie par les seules Administrations des Télécommunications.

Quelle que soit la limite tracée entre les services de base et les services concurrentiels, les services de base devraient comporter des services de communication de données.

Dans le contexte du RNIS, le concept d'ONP devra surtout viser à assurer l'accès aux services porteurs transparents de façon à favoriser une concurrence dynamique au niveau des services d'application (à l'exception du service téléphonique commuté standard, au cas où celui-ci recevrait le statut de service d'application réservé).

Comme la technologie du réseau de base progresse constamment et offre des innovations toujours plus sophistiquées pour un coût négligeable ou nul, le bénéfice de ces progrès devrait être reporté sur les fournisseurs de service concurrentiels et finalement sur l'utilisateur. Par exemple, il est important que les fournisseurs de services concurrentiels aient accès à une large gamme de signaux d'information (p. ex. pour l'identification d'un appel entrant) sous une forme pratique et standardisée, de façon à assurer que l'intelligence croissante incorporée dans le réseau bénéficie aux usagers accédant aux services concurrentiels, en ce compris les services offerts par les Administrations des Télécommunications.

#### Normes et définitions

Pour permettre la prestation de services transfrontières, les services de réseau devront être transparents dans toute la Communauté. Ceci nécessitera bien évidemment des mesures poussées d'interconnexion, dépassant celles existant dans un contexte international. En particulier, les limitations qui existent dans certains Etats Membres concernant la disponibilité de lignes louées et la connexion de celles-ci aux services commutés devront être éliminées en temps voulu.

Dans toute la Communauté, il faudra garantir la continuité des services qui seront, le cas échéant, classifiés comme services de base relatifs au réseau et qui, à ce titre, devront obligatoirement être assurés par les Administrations des Télécommunications.

Ces services doivent être fournis dans des conditions comparables à tous les prestataires de services concurrentiels et ils ne devraient pas être exploités par une Administration de Télécommunications individuelle pour fournir elle-même des services concurrentiels, à moins que cela se fasse sur une base comparable garantissant une concurrence loyale avec les autres prestataires. Il convient de remarquer que les services de base relatifs au réseau et fournis sous un régime d'ONP (p.exemple le service X 25 de commutation de paquets) ne devraient pas tous être réservés aux Administrations des Télécommunications.

La mise en oeuvre des principes communs en matière d'accès nécessitera d'assurer la compatibilité avec une série de protocoles d'accès relatifs aux couches inférieures, protocoles qui devraient être harmonisés au niveau de toutes les Administrations des Télécommunications. Les protocoles d'aucun fabricant de commutateurs ne devraient devenir dominants. Un engagement ferme en faveur de l'OSI pourrait minimiser le risque de divergences nationales.

L'accès au réseau devrait être aussi transparent que les possibilités techniques le permettent, laissant aux fournisseurs et utilisateurs de services concurrentiels un maximum de flexibilité pour le choix des protocoles de couches supérieures les plus adaptés aux exigences de leurs applications.

Il est nécessaire de coordonner l'introduction du RNIS dans toute la Communauté. Il est évident qu'il existe peu de consensus actuellement sur la notion de RNIS et que ce problème doit être résolu en ayant le concept d'ONP à l'esprit. Le débat sur le RNIS devra utiliser l'ONP comme point de repère pour assurer que la définition finale du RNIS répond aux exigences de l'ONP. Dans le RNIS, des interfaces supplémentaires et/ou une extension des normes proposées pourraient être nécessaires pour assurer l'accès aux signaux d'information et aux paquets de données transportés sur le canal "D".

Ces questions relèvent d'ores et déjà de diverses organisations comme la CEPT et le CCITT; les problèmes identifiés dans cette section ne peuvent être résolus qu'avec leur coopération. Une solution efficace exige également la coopération des fabricants d'équipements terminaux et d'équipements de réseau, comme celle des fournisseurs et des utilisateurs de services concurrentiels.

### Structures tarifaires

Les structures tarifaires devraient être élaborées à partir de tarifs basés sur les coûts. Ceci est un point essentiel, sur lequel l'UNICE insiste fortement. Le niveau des tarifs peut varier entre les différents Etats Membres, compte tenu du niveau variable des coûts réels, mais ceci ne justifie pas des différences dans les principes de tarification.

Les différences entre les structures tarifaires nationales et internationales devront être minimisées de façon à ce que certains fournisseurs de services concurrentiels ne soient pas désavantagés du fait de leur implantation dans certains Etats Membres. Les Etats Membres devraient reconnaître que des tarifs excessivement élevés font supporter par leurs usagers des télécommunications un fardeau qui peut rendre leurs biens et services moins compétitifs sur les marchés communautaire et mondial.

L'interdiction de la revente pure et simple de capacités devrait être considérée seulement comme une mesure transitoire visant à réduire la perte de revenus dont souffrent les Administrations des Télécommunications du fait de l'"écrémage", perte qui est due aux distorsions existant actuellement dans le plupart des Etats Membres entre les tarifs et coûts et aux possibilités d'arbitrage que ceci entraîne.

La "simple revente" de capacité devrait être définie comme l'utilisation de lignes louées pour offrir un service de téléphone commuté ordinaire.

Un rééquilibrage des tarifs devra être effectué par certaines Administrations des Télécommunications afin d'éliminer les disparités entre les tarifs pour les communications locales et à longue distance. L'UNICE appuie totalement ce rééquilibrage. Ce rééquilibrage sera non seulement positif du point de vue d'un traitement équitable de tous les utilisateurs, mais en outre il minimisera le potentiel de pertes de revenus que les Administrations des Télécommunications peuvent subir en raison de l'"écrémage".

#### Raccordement des équipements

Les fournisseurs de services devront pouvoir raccorder leurs équipements à l'infrastructure de base du réseau dans toute l'Europe. Ceci exigera des normes européennes pour l'accès au réseau et une reconnaissance mutuelle des agréments en Europe, mais les normes obligatoires devraient être limitées à celles nécessaires, d'une part, pour assurer la sécurité des utilisateurs et du personnel du réseau et, d'autre part, pour protéger le réseau contre d'éventuels dommages. La compatibilité fonctionnelle avec les services d'application ne devrait pas faire l'objet d'une procédure d'agrément, étant donné que les exigences fonctionnelles dépendent des caractéristiques particulières qu'un fournisseur de services décide de conférer à ses services. Ces exigences fonctionnelles sont donc une matière à négocier par les fournisseurs de services avec les fournisseurs d'équipements de leur choix.

Les fournisseurs de services devront avoir l'assurance que les utilisateurs de leurs services pourront accéder à ces services dans toute l'Europe, ce qui exigera des spécifications d'interface simples et uniformes pour le raccordement des équipements terminaux au réseau de même que la liberté pour les fournisseurs de services d'implémenter partout en Europe toutes interfaces de haut niveau (couches supérieures) permettant de satisfaire au mieux les besoins de leurs utilisateurs.

#### LA RÉGLEMENTATION DE LA CONCURRENCE

##### La nécessité d'une réglementation

L'UNICE reconnaît que les propositions du Livre Vert visant à maintenir le monopole du réseau et à permettre d'établir un monopole des Administrations des Télécommunications sur certains services ne sont pas incompatibles avec l'article 90(1) du Traité CEE. Ces propositions entraînent inévitablement un système de réglementations de contrôle compliquées à l'égard des agences de télécommunications publiques et privées, très difficile à faire fonctionner. Cependant, même en Grande-Bretagne, où la concurrence est admise à tous les niveaux des télécommunications, des dispositifs réglementaires de sauvegarde sont considérés comme nécessaires pour garantir une concurrence loyale et protéger les intérêts des utilisateurs.

En outre, les Administrations des Télécommunications ont pris une position solide sur le marché grâce à des actions entamées il y a plusieurs années, cet avantage se trouvant conforté par leur dimension et leurs liens mutuels. La solidité de cette position nécessite également de réglementer

la concurrence de manière attentive dans les domaines particuliers où les Administrations des Télécommunications seront en concurrence avec des fournisseurs privés (offrant des terminaux et certains services, notamment en matière d'installation et d'entretien), cette réglementation devant spécialement veiller à éviter des distorsions de marché provenant de subsides croisés.

#### Les objectifs de la réglementation

La réglementation de la concurrence doit exiger dès le départ des conditions égales pour l'accès au marché et le déploiement des activités. Elle doit aussi prévoir des sanctions contre la violation des règles de concurrence dans les relations suivantes :

- entre les Administrations des Télécommunications et leurs concurrents sur les marchés libéralisés, ainsi que dans la relation entre les fournisseurs privés et les prestataires de services eux-mêmes sur ces marchés,
- entre les fournisseurs de service et de terminaux sur les marchés concurrentiels et les utilisateurs des télécommunications (souci d'éviter l'abus d'une position dominante sur le marché),
- entre les Administrations des Télécommunications et les utilisateurs dans les domaines monopolistiques, spécialement pour ce qui concerne les conditions d'utilisation, les tarifs et les redevances pour la location de lignes.
- entre les Administrations des Télécommunications et les fabricants, de manière à éviter l'exploitation abusive d'une situation d'intégration verticale.

Les propositions contenues dans le Livre Vert rencontrent dans une certaine mesure ces exigences politiques, juridiques et économiques. Elles demandent à juste titre l'élimination des subsides croisés inévitables, une transparence aussi grande que possible dans la comptabilité des Administrations des Télécommunications et une séparation (comptable) entre le secteur postal et celui des télécommunications. Cependant, aux yeux de l'UNICE, le Livre Vert devrait faire une distinction entre les subsides croisés légitimes et ceux qui ne le sont pas.

#### Subsides croisés

D'un côté, il est légitime de financer la recherche et le développement, l'introduction de nouveaux services et l'extension de l'infrastructure de télécommunications au moyen des revenus des services rentables parce que :

- la recherche et le développement améliorent l'efficacité du secteur des télécommunications dans son ensemble;
- des subsides initiaux pour l'introduction de nouveaux services sont essentiels pour créer de nouveaux marchés, sur lesquels des fournisseurs de services indépendants peuvent subséquemment faire leur entrée. Une subvention initiale présuppose de recouvrir pleinement, à moyen terme, les dépenses engagées et d'atteindre la rentabilité à long terme;

- le financement de l'extension de l'infrastructure de télécommunications en ligne avec la demande des utilisateurs (même si cette extension n'assure pas directement le remboursement de ses coûts) correspond à l'intérêt général et améliore la productivité de tous les services.

D'un autre côté, des revenus obtenus grâce à une position privilégiée ne doivent pas être utilisés pour casser les prix sur un marché concurrentiel afin de prendre possession de celui-ci. Par exemple, des entreprises qui bénéficient dans les faits ou en vertu du droit d'une position dominante sur le marché (qu'il s'agisse d'Administrations des Télécommunications, d'importants fournisseurs d'équipements ou de gros prestataires de services) ne doivent pas être autorisées à utiliser cette position dominante pour subsidier au plan interne les activités particulières dans lesquelles elles sont exposées à la concurrence. Les incitants commerciaux qui poussent à de telles opérations de subvention interne dépendent de la forme de la réglementation des prix et des profits, lorsqu'il en existe une. Dans un régime de contrôle réglementaire du taux de rendement tel que celui existant aux USA, de tels incitants sont puissants, mais dans un régime de contrôle de prix du type britannique, on peut dire que de tels incitants sont inexistantes. Cependant, des subsides croisés contraires à la concurrence peuvent également avoir des mobiles politiques tenant à la politique économique ou sociale nationale. Il ne faut pas permettre aux Gouvernements des Etats Membres de subsidier eux-mêmes, ou de pousser indirectement à subsidier, les activités concurrentielles de leurs Administrations des Télécommunications pour ces raisons ou pour toute autre raison quelle qu'elle soit.

#### Les fonctions réglementaires des Administrations de Télécommunications

L'UNICE appuie vigoureusement la proposition du Livre Vert de scinder les fonctions réglementaires et opérationnelles des Administrations des Télécommunications en entités légales distinctes. Cette distinction est essentielle si l'on veut éviter des conflits d'intérêt dans le fonctionnement du marché concurrentiel envisagé par le Livre Vert. Cette séparation fonctionnelle nécessitera des changements institutionnels dans certains Etats Membres, changements qui devront être réalisés avec le souci de sauvegarder la concurrence dans un contexte européen, et pas seulement national.

#### Institutions communautaires pour la mise en vigueur de la réglementation

Si cette séparation fonctionnelle est réalisée, la démarche la plus efficace pour atteindre les objectifs de la politique européenne des télécommunications sera de s'appuyer sur les institutions communautaires existantes (en particulier les DG IV et XIII de la Commission), agissant en cheville avec les organes de réglementation nationaux. Ceci reflèterait la façon dont la DG IV travaille d'ores et déjà avec les Autorités responsables de la concurrence dans chaque Etat membre. Pour les pays membres de l'AELE, un dispositif institutionnel similaire doit être créé pour la mise en vigueur des réglementations.

Des propositions visant à introduire des niveaux supplémentaires dans la pyramide institutionnelle (par exemple, créer un "Euroftel") posent des problèmes certains au plan de la délimitation des responsabilités et au plan de leur mise en oeuvre concrète, vu le manque de personnel suffisamment qualifié et expérimenté. Les organes qui existent au niveau national et au niveau de la Commission devront fonctionner en tout état de cause et l'adjonction d'échelons supplémentaires ne ferait qu'augmenter le poids (et les coûts) de la réglementation. En outre, ceci entraînerait des duplications d'efforts et pourrait en fait entraver bien plus qu'aider la définition d'une politique européenne des télécommunications ainsi que le contrôle de sa mise en oeuvre.

### MARCHES PUBLICS

La décision prise par les Chefs de Gouvernement au sommet de Milan de parachèvement le marché intérieur pour 1992 exige une ouverture réciproque rapide des marchés publics. Il faut créer des marchés permettant aux entreprises européennes de s'affirmer avec succès sur les marchés CEE et mondiaux. L'UNICE appuie dès lors le principe que les Administrations des Télécommunications devraient regarder au-delà de leurs frontières nationales lorsqu'elles doivent choisir leurs fournisseurs d'équipements.

Etant donné la nature complexe des télécommunications, il convient de s'entourer de toutes les précautions nécessaires pour que la mise en oeuvre de ce principe ne mette pas en péril les intérêts des fabricants européens.

Un segment de marché caractérisé par une concurrence effective au niveau de l'utilisateur final n'a pas besoin de faire l'objet d'une directive/recommandation en matière d'achats publics. Si une réglementation était imposée aux administrations des Télécommunications actives sur des segments de marché de ce type, sans être appliquée également à leurs concurrents, ces Administrations subiraient un préjudice réel. Une telle réglementation aboutirait en fait à des distorsions de concurrence.

L'UNICE recommande par conséquent que les recommandations en matière de marchés publics ne s'appliquent pas aux achats d'équipements terminaux effectués par l'Administration des Télécommunications d'un pays

- a) dont le marché des équipements terminaux est effectivement concurrentiel et
- b) où aucun rôle n'est dévolu à l'Administration des Télécommunications pour réglementer les procédures d'agrément des appareils à connecter à son réseau.

## LES ECHANGES COMMERCIAUX ET LES RELATIONS AVEC LES PAYS TIERS

### Le GATT et le bilatéralisme

Il est indispensable de conforter l'approche communautaire vis-à-vis de ses partenaires et plus particulièrement à l'occasion des négociations GATT.

Malgré leur spécificité, les télécommunications - tant sous leur aspect de service que sous leur aspect d'équipement - ne doivent pas être séparées des autres activités et produits mais négociées de manière globale. En particulier, elles ne doivent pas faire l'objet d'accords bilatéraux contraires à l'esprit du GATT mais bien être soumises au statu quo et à la recherche de solutions multilatérales, afin d'éviter de rétrograder - à la fois dans leur rôle de véhicule de la communication donc du commerce et de l'échange internationaux et dans leur aspect de participation à l'accroissement des exportations et de développement du PIB - sous les pressions protectionnistes tant de la part des pays nouvellement industrialisés que du Japon ou des U.S.A.

### La nécessaire réciprocité

L'UNICE considère essentiel que l'ouverture du marché européen des télécommunications à la concurrence des fournisseurs de services et d'équipements basés hors de la Communauté se fasse en tenant compte des intérêts de l'industrie européenne. Ceci veut dire que, sur les marchés des Etats où sont basés ces fournisseurs, les entreprises européennes devraient pouvoir prendre part à la compétition dans des conditions équitables, en vertu du principe de la réciprocité. Les avantages compétitifs dont bénéficient certaines entreprises non communautaires en raison de facteurs tels que leur statut d'entreprise publique) ou l'absence de législation nationale en matière de sécurité sociale devraient être pris en compte pour apprécier le caractère équilibré des concessions mutuelles faites sur le plan de l'ouverture des marchés.

Il serait dangereux pour les industries de la Communauté que la transparence et l'information concernant aussi bien les accords que les résultats des consultations, tout à fait souhaitables à l'échelon européen, soient utilisés à leur détriment par des pays tiers qui exploiteraient ainsi des informations sans contrepartie.

La Communauté devrait riposter aux accusations de protectionisme proférées contre elle à l'occasion d'aspects positifs de la création du Grand Marché Intérieur (telle que les normes européennes) en exigeant une stricte réciprocité aux pays à structure fédérale où la disparition officielle de barrières tarifaires ou non tarifaires au niveau de la fédération laisse place à la multiplication d'obstacles au niveau des états fédérés. Il est essentiel que de tels obstacles soient également éliminés sans quoi tout accord de réciprocité ne serait qu'un leurre.

D'autre part, du fait de leur nature, les télécommunications doivent bénéficier de l'application du principe de non-discrimination aux termes duquel les bénéfices acquis dans le cadre d'un accord bilatéral doivent aussi profiter aux autres Parties Contractantes du GATT (cas des accords U.S.A. - JAPON).

Enfin, la Communauté doit obtenir l'élimination d'obstacles techniques tels que les normes de caractère régional ou privé et l'ouverture des marchés publics des pays tiers lorsqu'il s'agit d'entités territoriales ou locales - toujours dans un esprit de réciprocité. Il en est de même pour la propriété intellectuelle et industrielle.

Il importe que, lorsque les marchés publics de télécommunication des états membres seront ouverts, la notion de préférence communautaire soit prévalente et qu'en soient exclus les pays qui n'accorderaient pas une ouverture de leurs achats gouvernementaux strictement réciproque. Cela posera le problème des pays tiers où les décisions sont prises par des firmes ou entités privées (ou considérées comme telles) qui ne se considèrent pas liées par des engagements internationaux.

En conclusion, l'article J des recommandations est reconnu souhaitable dans la mesure où une réciprocité réelle confirmée par des contrôles multilatéraux dans les domaines des achats publics, du dumping, des subventions et de la propriété industrielle, est obtenue des partenaires de la Communauté par une négociation très ferme.

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## GLOSSAIRE DE TERMES TECHNIQUES - GLOSSARY OF TERMS

### Access protocols/Protocoles d'accès

Recognised interfaces to communication facilities independent of manufacturers' individual protocols

### Analogue telecommunications/ Télécommunications analogiques

Service provided by a circuit which gives a direct representation of a phenomenon in another form eg. representation of voice sounds as electrical audio signals

### Applications service/Services d'application

That part of a telecommunications service which provides the distinct features of the particular service, eg. voice telephony, telex or data transmissions

### Bearer services/Services porteurs

The conveyance of a signal by means of the physical infrastructure provided by a Telecommunications Administration (TA), providing the appropriate medium by which either the TA or another service provider can offer applications services

### Digital telecommunications/Télécommunications numériques

Service provided by a circuit which transmits signals in digital form

### NETs

Normes Européennes de Telecommunications -common conformity specifications.

### Integrated Services Digital Network (ISDN)/ Réseau Numérique à Intégration de Services (RNIS)

An integrated digital network in which the same digital switches and digital paths are used for different applications services.

### Leased Lines (also known as private circuits)/Lignes louées (également appelées circuits privés)

An unswitched circuit, normally made available to a user for his exclusive use.

Simple resale/simple revente

Occurs when a person uses a leased line to convey telecommunications traffic of others, bypassing the TA's switched public network

Telemetry/télémessure

A method of remote sensing or measurement in which the data collected by sensing or measuring devices in one place are transmitted to another place for display and/or recording.

Terminal apparatus/équipement terminal

Equipment located on the customer's premises on the customer's side of the Network Termination Point and user for the generation or reception of telecommunication signals.

ABBREVIATIONS

CCITT	Comité Consultatif International Télégraphique et Téléphonique
CEPT	Conférence Européenne des Administrations des Postes et Télécommunications
ECMA	European Computer Manufacturers' Association
ECTEL	European Trade Association of Telecommunication Apparatus Manufacturers
EN	Norme Européenne
ENV	Prénorme Européenne
EWOS	European Workshop for Open Systems
GATT	General Agreement on Tariffs and Trades
CEI	Commission Electrotechnique Internationale
ISO	International Standards Organisation
ITSTC	Information Technology Steering Committee
OSI	Open Systems Interconnect

3 December 1987

## THE EUROPEAN COMMISSION GREEN PAPER ON TELECOMMUNICATIONS

(COM 87/290)

### COMMENTS FROM UNICE

#### INTRODUCTION

UNICE wholeheartedly supports the objective of the Commission's Green Paper, to promote fair and open competition in the telecommunications market throughout the Community so as to provide an appropriate environment for the development of strong, internationally competitive European enterprises.

We consider that it would be inappropriate to comment in detail on the text of the Green Paper. Rather, we seek to emphasise those areas to which the Commission must give attention so as to avoid subsequent difficulties arising from ambiguities and misunderstandings. Where possible, we suggest how the Commission might best approach the areas of difficulty which are identified, bearing in mind the realities of the current telecommunications régimes in the Member States.

Although the comments set out below refer to the industry in the Community and in Member States, the members of UNICE from Community and non-Community countries have expressed their approval of this paper and agree that any policy on European telecommunications should include non-Member States represented by UNICE.

#### DEFINITIONS AND BASIC CONCEPTS

##### Telecommunications Infrastructure

UNICE accepts the Commission's conclusion that the national Telecommunications Administrations\* require a degree of protection so as to enable them to finance the provision of socially desirable telecommunications services which may not necessarily be economically viable. Any protected right of a Telecommunications Administration to provide the network infrastructure should, we believe, be limited to the

\*This term, although used in the Green Paper and throughout this document, is regarded by UNICE as misleading since it implies a Government or Government controlled activity. In fact, it means any provider and operator of a public network infrastructure.

provision of telecommunications infrastructure. This will necessitate a clear and unambiguous definition of what constitutes telecommunications infrastructure, which should be periodically revised to take account of technological development and particularly the evolution towards a digital infrastructure.

We note that in some countries telecommunications infrastructure is considered to include only infrastructure technically capable of two way, or interactive, communication, thus excluding infrastructure used only for such purposes as:

- one-way telemetry,
- one-way cable TV diffusion,
- radiopaging and
- all one-way broadcasting of sound radio or television, even where the information transmitted is encrypted so as to be receivable only by a closed group of users.

On the other hand, some Member States apply telecommunications regulation to all or some of these activities.

In defining telecommunications infrastructure the Commission must, in our view, avoid distorting the natural development of interactive, modern communications infrastructure by offering definitions which induce potential market entrants to design their systems so as to avoid regulation but at the cost of omitting advanced interactive capabilities. The exclusion of "one-way" systems could introduce such undesirable incentives.

We should also wish to ensure that any rights reserved to Telecommunications Administrations of Member States related only to the provision of services over public networks and that any special rights of the Telecommunications Administrations to provide certain services could not be extended onto private networks (whether or not these include certain elements provided by a Telecommunications Administration). This will require a clear distinction to be drawn between public and private networks.

#### Bearer Services and Applications Services

UNICE notes that, in the present analogue telecommunications environment, the infrastructure, as perceived by the customer, is identified with the "bearer" service provided by the Telecommunications Administration and with the "applications" service which may be provided by the

Administration or by a different service provider. Thus, the applications services of voice telephony and telex are provided over infrastructures which are physically distinct (at least at the exchange line level) and therefore involve physically distinct (though broadly similar) "bearer" services. In the ISDN environment, however, the infrastructure and "bearer" services will be common to all applications services. It is therefore essential that the Commission's thinking on the reservation of infrastructure rights, which necessarily entails the duty of Telecommunications Administrations to provide "bearer" services, should not become confused with its thinking on the possible reservation of certain "applications" services to those Administrations.

#### Basic, or Reserved, Services

The definition of basic, or reserved, service in the Green Paper and in any ensuing legislative proposals should be limitative and should not be capable of extension by Member States so as to increase the scope of the services reserved to national Administrations. The initial definition of the scope of the reserved services will undoubtedly be a difficult matter of policy. UNICE supports the Commission's aims to introduce competition to the greatest possible extent.

The proposed review of the definition of basic, or reserved, service (however defined initially) should not be capable of extending the scope of such service but only of reducing or retaining the initial scope. If the Commission decides to include services other than voice telephony in the definition of reserved services, there should be a clear commitment to phasing out these exceptions within a short and definite period.

#### Satellite Services

UNICE believes that the use of satellites for telecommunications purposes should be considered in the same way as land lines and thus reserved to the Telecommunications Administration. A case-by-case approach could lead to inconsistencies and would result in uncertainty.

#### The Network Termination Point

An essential element in ensuring the creation and proper functioning of a free and open market in telecommunications terminals will be a clear and certain definition of the point at which the network ends and terminal apparatus begins. The network operator should not be permitted to extend the network into the area properly considered to be

terminal apparatus; nor should the user or terminal apparatus supplier be permitted to push the boundary of the network back from the user's premises into the area properly served by the network operator.

### Terminal Apparatus

It should be made expressly clear that any list of items which constitute terminal apparatus (for example as in figure 8 of the Green Paper) is illustrative and not exhaustive. No opportunity should be allowed for member state Governments, pursuing narrow national or sectoral interests, to limit the free market in terminal apparatus by excluding from the scope of national legislation items not yet contemplated, such as subsequent apparatus developments.

### Phasing In

We also think that the Commission should consider the need for gradual phasing of some aspects of its policy, in the interests of an orderly transition for the benefit of users, suppliers (especially those of small and medium size), embryo competitors in the service and apparatus field and Telecommunications Administrations. Such phasing arrangements must be clearly defined in advance so that certainty prevails. Lack of certainty would be damaging to all concerned.

## STANDARDISATION AND CERTIFICATION

### The Need For Action

If we are to enjoy a competitive European market by 1992, European standards will have to be adopted quickly both in telecommunications and in information technology. UNICE therefore stresses the need to intensify European standardisation efforts, thus shifting the emphasis from national standardisation, by speeding up both the drafting of standards and their adoption in Europe. The final objective of European standardisation should be to achieve international acceptance and world-wide recognition.

### The Participants

It should be possible for all the interest groups concerned to take part in this task which is so important for Europe: Telecommunications Administrations, equipment manufacturers and users and providers of services the role of the standardisation bodies is to organise co-operation of the interested parties.

UNICE supports the Commission's view that in order to

achieve a reasonable number of these objectives within a reasonable time, the human and financial resources devoted to standardisation in telecommunications and information technology will have to be increased considerably, and active co-operation between the authorities, producers and consumers will have to be better organised. UNICE stresses in particular the fact that industrial producers and users should be able to collaborate in the decision-making and programming involved in standardisation, and take part in the final voting on draft standards. However, it is important to avoid a proliferation of the bodies that carry out work parallel to the drafting of standards; the number of industrial experts available for technical work is, in fact, quite limited and means there is no room for duplication of work.

Current standardisation activities should be better organised in future, and should be carried out by very specialised ad hoc working groups which have a well-defined mandate for a limited period and are aiming at producing a specific draft standard.

#### Organisation

In view of this, and given the increasing convergency of the technologies for information processing and transmission, UNICE believes that the function in this area of CEN/CENELEC and CEPT should be closely co-ordinated as it is becoming more and more difficult to distinguish between information technology on the one hand and telecommunications on the other. ITSTC already provides for CEPT/CEN/CENELEC co-ordination, but this arrangement may need some improvement.

The arrangements for preparing European NETs, standards and pre-standards should be simple, flexible and properly defined and should enable one to achieve the following objectives as soon as possible:

- there should be full, world-wide compatibility of networks which would ensure that any service required could be obtained with an optimum performance/price ratio;
- all terminals should be fully compatible with the networks and bearer services for which they are to be used;
- industrial suppliers, network users and providers of services should be able to avail themselves of economies of scale.

UNICE thinks that:

- a strengthened, more active CEN/CENELEC (the European

Standardisation Institutes) would be qualified to prepare European standards and pre-standards (EN and ENV);

- the initiative of CEPT - on the basis of the Green Paper - to establish in the near future a European Telecommunication Standards Institute (ETSI) may be acceptable so long as the manufacturers and users are fully involved in the setting of standards and the Institute is part of the European standards structure. (The establishment of EWOS in this structure sets an example.)

Work should therefore be carried out by technical experts outside the Institute, depending, in the telecommunications and information technologies field, on the resources available at CEN/CENELEC, CEPT and ECMA, ECTEL and possibly EWOS.

Close co-operation in information technology standardisation is essential because developments in the fields of telecommunication and the whole range of information technology cannot be seen separately. The separate development of standards in different bodies must be avoided at all costs.

#### OPEN NETWORK PROVISION (ONP)

##### Introduction

ONP is seen as an essential feature of a telecommunications environment designed to allow the provision of competitive services throughout Europe and hence act as a stimulus to the economy of the Community. To achieve this aim it will be necessary for service providers to have trans-border access to network services and for these 'basic services' to be of a comparable standard throughout the Member States.

The creation of ONP will depend on the resolution of a number of major issues which can be assembled under 4 main categories:

##### Network Services

There will need to be agreement on what facilities constitute the basic network infrastructure which the paper suggests might continue to be provided by the Telecommunications Administrations alone. Whichever way the boundary between basic and competitive services is drawn the basic services should include data services.

In the ISDN context, the concept of ONP should focus on access to the transparent bearer services so as to facilitate effective competition in applications services

(except to the extent that standard switched voice telephony might be a reserved application service).

As the technology of the basic network advances and can provide more sophisticated features, at little or no extra cost, the benefits should be passed on to the providers of competitive services and ultimately the end users. For example, it is important that competitive service providers have access to a wide range of signalling information (eg. calling number identification) in some efficient, standardised form to ensure that the increasing intelligence being incorporated in the network will benefit users accessing any competitive service, including those of the Telecommunications Administrations.

#### Standards and Definitions

To enable trans-border services to be provided the network services will need to be transparent throughout the Community. This will obviously require extensive interconnect arrangements beyond those existing in an international context. In particular, limitations in some Member States on the availability of leased lines, and their interconnection with switched services will have to be removed in due course.

There will need to be continuity throughout the Community on those services which should be considered as basic network services which the Telecommunications Administrations are obliged to provide. These services must be provided on comparable terms to all providers of competitive services, and should not be used by the Telecommunications Administration concerned in order to provide competitive services itself except on a comparable basis providing fair competition with other providers. The distinction must be made that not all basic network services provided under ONP (eg. X.25 packet switching service) should be reserved to the Telecommunications Administrations.

Common access arrangements will require compatibility with a set of lower layer access protocols, which should be harmonised among all Telecommunications Administrations. No one switch manufacturer's protocol should become dominant. Commitment to OSI could minimise the danger of national divergences.

Access to the network should be as transparent as practicable, leaving the maximum flexibility for competitive service providers and users to select the higher layer protocols best suited to their application requirements.

The introduction of ISDN needs to be co-ordinated throughout the Community; it is evident that there is little consensus

on the definitions of ISDN at the moment and this must be resolved with the concept of ONP in mind. The ISDN debate will need to use ONP as a reference point to ensure that the final definition sits comfortably with the requirements of ONP. In ISDN, additional interfaces and/or extensions to the proposed standards may be required to provide access to signalling capabilities and data packets being transported over the signalling 'D' channel.

These issues are already the responsibility of a number of bodies such as CEPT and CCITT; the problems identified in this section can only be resolved with their co-operation. Effective resolution also requires the co-operation of terminal equipment and network equipment manufacturers, competitive service providers and users.

### Tariff Structures

Tariff structures should be built around cost orientated tariffs. This is an essential point strongly emphasised by UNICE. Tariff levels may vary between the Member States, given varying levels of actual cost, and differing financial strategies, but that does not justify differences in tariff principles.

The differences in national and international tariff structures will need to be minimised so that competitive service providers are not disadvantaged when operating in certain Member States. Member States should recognise that excessive tariffs impose a burden on their telecommunications users that may make their goods and services less competitive in Community and world markets.

The prohibition of simple resale should be considered only as an interim measure to reduce the loss of revenue to the Telecommunications Administrations from 'cream-skimming', which is due to current distortions of tariff structures in relation to cost in most Member States and the potential for arbitrage that this represents. 'Simple resale' should be defined as the use of leased circuits to provide an ordinary switched telephone service.

Tariff rebalancing will be required of some Telecommunications Administrations to remove the inequalities between local and long distance tariffs. UNICE fully supports this rebalancing. In addition to being fair to all users, it will also minimise the potential of revenue losses to the Telecommunications Administrations due to 'cream-skimming'.

### Equipment Attachment

Service providers will need to be able to attach their

equipment to the basic network infrastructure throughout Europe. This will require Europe-wide standards for access to the network and mutual recognition of type approval throughout Europe, but mandatory standards should be limited to those necessary to ensure safety of users and network personnel and to prevent harm to the network. Functional compatibility with applications services should not be required for type approval, since functional requirements will depend on the particular features a service provider chooses to implement in his service and are a matter for service providers to negotiate with their choice of equipment suppliers.

Service providers will need to be assured that users of their services will be able to access those services throughout Europe which will require simple, uniform interface specification for attachment of terminal equipment to the network and the freedom of service providers to implement throughout Europe whatever higher layer interfaces best serve the needs of their users.

## THE REGULATION OF COMPETITION

### The Need For Regulation

UNICE acknowledges that the Green Paper's proposals for retaining the network monopoly and for allowing the possibility of establishing a monopoly of the Telecommunications Administrations for certain services are not prohibited under Article 90 (1) of the EEC Treaty. These proposals inevitably entail a system of complicated supervisory regulations against private and public telecommunication agencies which would be very difficult to put into practice. But even in the United Kingdom, where competition is admitted at all levels of telecommunications, regulatory safeguards are considered necessary to ensure fair competition and to protect interests of users.

In addition, the Telecommunications Administrations have acquired a strong market position on account of having established themselves over the years, with the further advantages given by size and mutual association. The strength of this position also necessitates a precautionary competition regulation in those areas where the Telecommunications Administrations are to compete with private suppliers (terminals and certain services, including installation and maintenance), with the special aim of avoiding market distortions stemming from cross-subsidisation.

### The Scope of Regulation

The regulation of competition must therefore from the outset

require equal conditions of market access and exercise of operations and must provide for sanctions against infringements of the competition regulations where the following relationships are concerned:

- between the Telecommunications Administrations and their competitors in the competitive markets, as well as in the relationship between the private suppliers and service providers themselves in these markets,
- between the suppliers of services and terminals in the competitive markets and the telecommunications users (from the point of view of avoiding market abuse).
- between the Telecommunications Administrations and the users in monopoly areas, especially with reference to the conditions of use, tariffs, and the charges for leased circuits
- between Telecommunications Administrations and manufacturers, so as to avoid abuses from vertical integration.

The proposals contained in the Green Paper go some way to meet these political, legal, and economic requirements. They rightly demand the removal of unfair cross-subsidisation, as much transparency as possible in the cost accounting of the Telecommunications Administrations and a separation (in accounting) between postal and telecommunications sectors. However, the Green Paper should in our view distinguish between legitimate cross-subsidisation and unfair cross-subsidisation.

#### Cross-subsidisation

On the one hand, it is legitimate to finance research and development, the introduction of new services and the expansion of the telecommunications infrastructure by means of the revenue from profitable services because:

- research and development improve the efficiency of the telecommunications sector as a whole;
- the initial subsidising of the introduction of new services is essential to the creation of new markets, which independent service providers may subsequently enter. Initial subsidising presupposes full cost recovery in the medium term and profitability in the long term; and
- the financing of an expansion of the telecommunications infrastructure in line with user demand (even where such expansion does not directly recover its costs) is in the general interest and improves the productivity of all

services.

On the other hand, revenues generated from a privileged position must not be used to enable predatory pricing to take place in a competitive area. For example, enterprises which enjoy a de facto or de jure dominant position in a market (whether Telecommunications Administrations or large suppliers of apparatus or providers of services) must not be permitted to use that dominant position so as to engage in cross-subsidisation of those activities in which they are subject to competition. The commercial incentives for such cross-subsidisation depend upon the form, if any of price or profit regulation. Under rate of return regulation as exercised in the US, such incentives are strong, but under price cap regulation as in the UK, it can be argued that there is no such incentive. However, anti-competitive cross-subsidisation can also arise from political motives of national economic or social policy. Governments of Member States must not be allowed to subsidise or cause to be subsidised, competitive activities of their Telecommunications Administrations for these or any other reasons.

#### The Regulatory Functions of Telecommunications Administrations

UNICE vigorously supports the proposal of the Green Paper to split the regulatory and operational functions of Telecommunications Administrations into distinct legal entities. This distinction is essential if conflicts of interest are to be avoided in the operation of the competitive market envisaged by the Green Paper. This functional split will necessitate institutional changes in some Member States which must be carried out with a view to safeguarding competition in a European, not just national, context.

#### Community Institutions of Enforcement

If this is done, then the objectives of European telecommunications policy can best be achieved through existing Community institutions (particularly DGs IV and XIII of the Commission) working with national regulatory bodies. This would reflect the way in which DGIV already works with the competition authorities in each Member State. For members of EFTA, a similar institutional arrangement for enforcement has to be set up.

Proposals to establish completely new layers of regulation (eg a "Euroftel") pose significant problems in terms of delineation of responsibilities and practicability in the face of a shortage of suitably qualified and experienced people. The Commission and national layers will have to

exist in any case and adding to this would only increase the burden (and costs) of regulation; it would certainly lead to duplication and could actually hinder rather than help the implementation and enforcement of European telecommunications policy.

#### PROCUREMENT

The Milan decision by the heads of states and government on the completion of the internal market by 1992 demands a speedy and reciprocal opening up of public procurement markets. Markets must be created which allow European industry to operate successfully in the EEC and world markets. UNICE therefore supports the principle that Telecommunications Administrations should be required to look beyond their national boundaries in choosing sources of supply of apparatus.

Due to the complex nature of telecommunications, the greatest care must be exercised so that the progressive introduction of these principles does not jeopardise the interests of European manufacturers.

There is no need for a procurement recommendation/ directive in a market sector which is fully competitive at the end user level. Indeed any such rules would operate unfairly if applied to Telecommunications Administrations in these competitive areas without being applied equally to their competitors. This would effectively distort competition;

UNICE therefore recommends that the procurement recommendation should not apply to the procurement of terminal apparatus by the Telecommunications Administration of a country in which:

- (a) the market for terminal apparatus is effectively competitive, and
- (b) the Telecommunications Administration has no regulatory rôle in the approval of apparatus for connection to its network.

#### TRADE AND EXTERNAL RELATIONS

##### GATT and Bilateralism

It is essential to reinforce and confirm the European Community approach vis-a-vis its partners and particularly on the occasion of the current GATT negotiations (Uruguay round).

Telecommunications, in spite of their specific nature as regards both service and equipment aspects, should not be

separated from other activities and products, but should be negotiated on a global, overall, basis. They should not be made the object of bilateral agreements contrary to the GATT spirit, but should rather be kept at "stand-still" and be subject to multilateral solutions, in order to prevent their regression (both in their rôle as a communication medium for trade and international exchange and in the part they play in the growth of exports and the development of the GNP) due to protectionist pressure coming from both the newly industrialised countries and Japan and the USA.

### The Need For Reciprocity

UNICE considers it essential that the opening of the European telecommunications market to competitive pressures from suppliers of apparatus and providers of service located outside the Community should take account of the interests of European industry in securing reciprocal rights to compete fairly and openly in the home markets of those non-Community companies. The competitive advantage given to non-Community enterprises by such factors as state ownership and the absence of national legislation on social welfare should be taken into account in assessing the fairness of reciprocal opportunities for competition.

It would be unwise for EEC industries that a transparent, open approach and voluntary information concerning its agreements and result of tenders - most desirable on a European scale - should be used to their detriment by third countries (non European or non EEC countries), who would exploit such openness and information on a non-counterpart basis.

Accusations of protectionism brought against the Community with regard to positive factors in the setting up of the internal market (such as European standards) should be countered by firm demands from the Community for strict reciprocity from countries with a federal structure where the official elimination of tariff or non-tariff barriers at a federal level may be frustrated by an increase in obstacles at the level of the federated states. It is essential that such obstacles are also eliminated otherwise any supposed "reciprocity" is bogus.

On the other hand, telecommunications should, by their very nature, benefit from the application of the non-discrimination principle, according to which the benefits acquired from a bilateral agreement should also profit other GATT contracting parties (in the case of USA - Japan agreements).

Lastly, the Community must achieve the elimination of technical obstacles such as standards of a regional or

private nature and the opening of public contracts from third countries when territorial or local administrations are involved - always in a spirit of reciprocity. This necessarily applies to industrial and intellectual property rights.

It is important that when public telecommunication markets between Member States are open, the idea of community preference should prevail and that countries which do not agree to a strictly reciprocal opening to their government purchases should be excluded. This poses the problem of the third countries, where decisions are taken by companies or private bodies (or considered as such) who do not regard themselves as bound by international commitments.

In conclusion, Article J of Table 13 is recognised as desirable insofar as a real and positive reciprocity by multinational controls with regard to public purchases - dumping, subsidisation and industrial and intellectual protection - is obtained from community partners by means of a firm negotiation policy.

ANNEX A

GLOSSARY OF TERMS

<b>Access protocols</b>	recognised interfaces to communication facilities independent of manufacturers' individual protocols
<b>Analogue Telecommunications</b>	service provided by a circuit which gives a direct representation of a phenomenon in another form eg. representation of voice sounds as electrical audio signals
<b>Applications Service</b>	that part of a telecommunications service which provides the distinct features of the particular service, eg. voice telephony, telex or data transmission.
<b>Bearer Services</b>	the conveyance of a signal by means of the physical infrastructure provided by a Telecommunications Administration, providing the appropriate medium by which either the TA or another service provider can offer applications services
<b>Digital Telecommunications</b>	service provided by a circuit which transmits signals in digital form
<b>European NETS</b>	Normes Europeennes de Telecommunications - common conformity specifications

**Integrated Services Digital Network (ISDN)**

an integrated digital network in which the same digital switches and digital paths are used to establish connections for different applications services.

**Leased Lines (also known as private circuits)**

an unswitched circuit, normally made available to a user for his exclusive use.

**Simple Resale**

occurs when a person uses a leased line to convey telecommunications traffic of others, bypassing the TA's switched public network.

**Telemetry**

a method of remote sensing or measurement in which the data collected by sensing or measuring devices in one place are transmitted to another place for display and/or recording.

**Terminal Apparatus**

equipment located on the customer's premises on the customer's side of the Network Termination Point and used for the generation or reception of telecommunication signals.

## **ABBREVIATIONS**

<b>CCITT</b>	The International Telegraph and Telephone Consultative Committee
<b>CEPT</b>	European Conference of Postal and Telecommunications Administrations
<b>ECMA</b>	European Computer Manufacturers' Association
<b>ECTEL</b>	European Trade Association of Telecommunication Apparatus Manufacturers
<b>EN</b>	European Norm
<b>ENV</b>	Draft European Norm
<b>EWOS</b>	European Workshop for Open Systems
<b>GATT</b>	General Agreement on Tariffs and Trades
<b>IEC</b>	International Electro Technical Committee
<b>ISO</b>	International Standards Organisation
<b>ITSTC</b>	Information Technology Steering Committee
<b>OSI</b>	Open Systems Interconnect



**DRAFT**

**RESPONSE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA**  
**TO THE EUROPEAN COMMUNITY GREEN PAPER ON THE**  
**DEVELOPMENT OF THE COMMON MARKET FOR TELECOMMUNICATIONS**  
**SERVICES AND EQUIPMENT**

Coordinated by:  
U.S. Trade Representative  
Office of European and Mediterranean  
Affairs  
Washington, D.C.

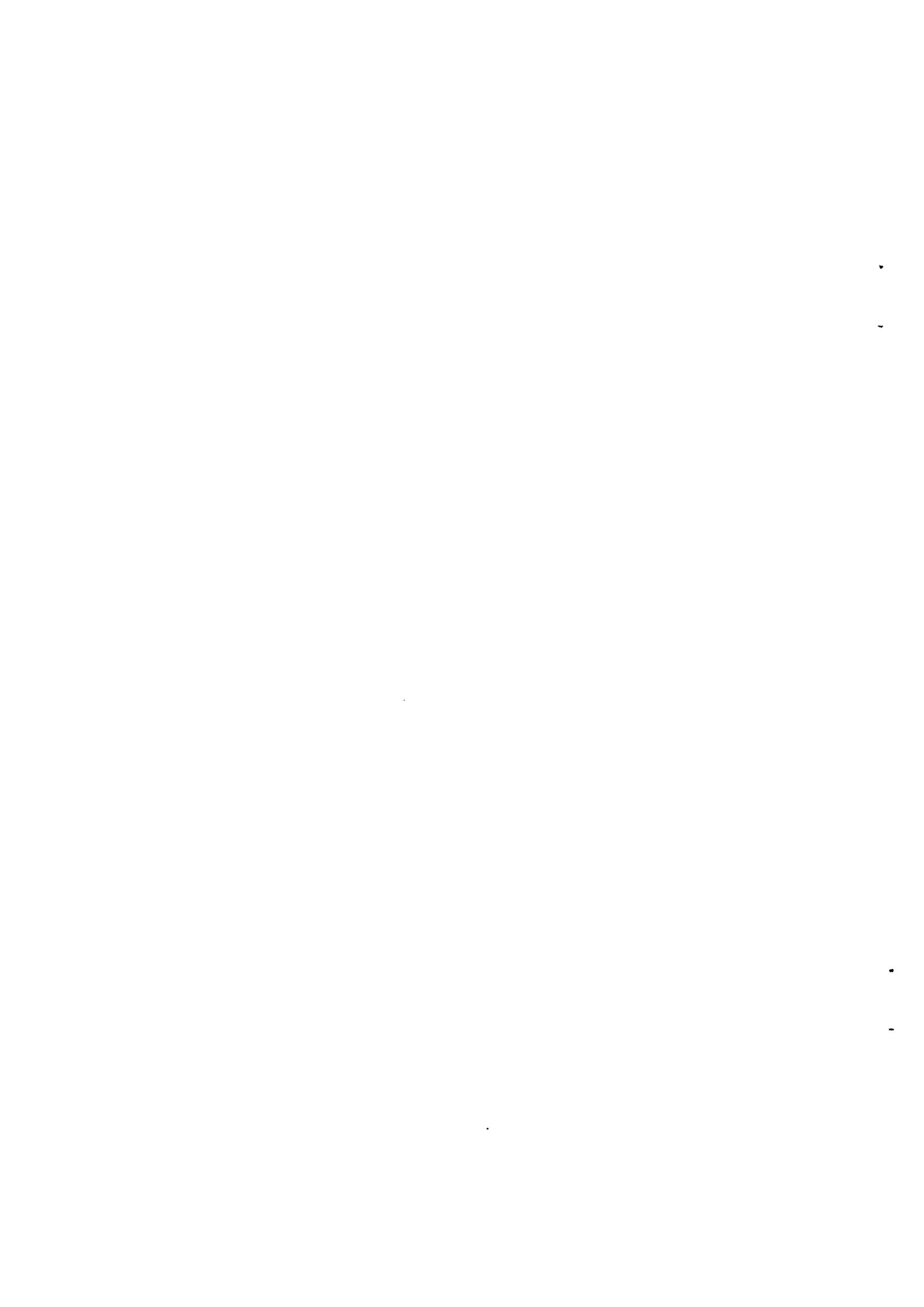


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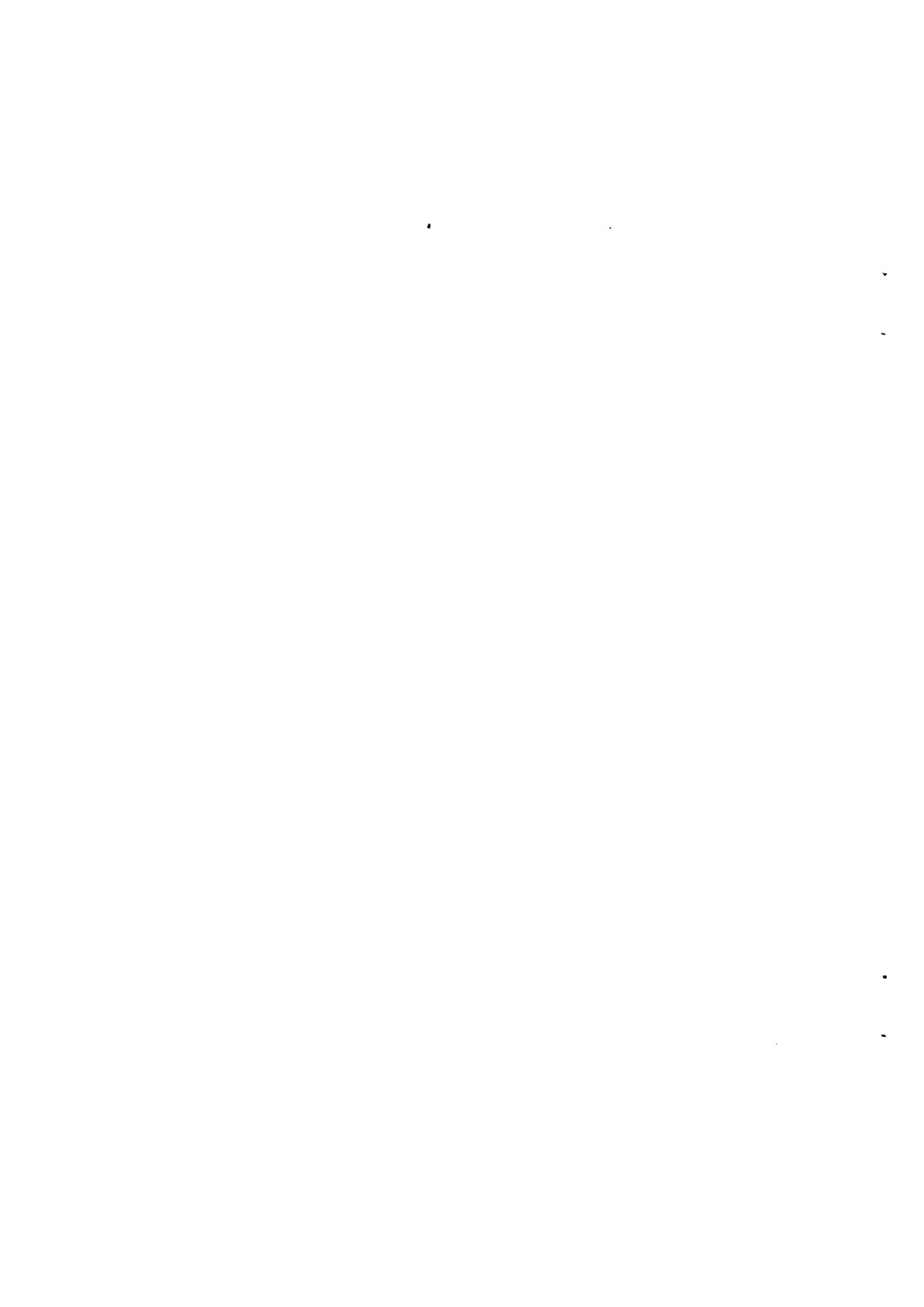
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## I. INTRODUCTION/OVERVIEW

The purpose of this paper is to provide the official response of the Government of the United States to the recently published European Community "Green Paper on the Development of the Common Market for Telecommunications Services and Equipment". The Green Paper establishes as its "overriding aim" the development of market conditions which provide "users with a greater variety of telecommunications services, of better quality, and at lower cost". The United States welcomes these aims, which are similar to the policy objectives underlying our own liberalization.

The American experience with liberalization leads us to conclude that the objectives enumerated in the Green Paper can best be achieved in a market which emphasizes competition from all sources, both intra- and extra-European. Anything less than truly international competition would fundamentally compromise these objectives and would prevent European industry from taking full advantage of the rapidly evolving innovations in telecommunications equipment and services.

Although the United States heartily welcomes the potential liberalization of the European telecommunications market represented by the Green Paper's proposals, their effects on future competition will only be made clear upon the Commission's further definition of the extent, and/or limitations, of these proposals. We look forward to seeing how the Green Paper's proposals are translated into EC directives, and we hope that we will have a similar opportunity to comment on draft directives before their adoption by the Council of Ministers.

In this paper, we examine the Commission's proposals as presented in the Green Paper, and offer our views on those proposals, as summarized below.

- The U.S. Government agrees with the Green Paper's conclusion that the regulatory and operational functions of Telecommunications Administrations must be separated. This principle is fundamental to the success of the EC's efforts.
- Unless PTT cross-subsidization is prohibited, the Commission's policy objective of fair and open competition will prove illusory. The U.S. Government agrees that transparency must be created to assure against such cross-subsidization practices by the Telecommunications Administrations. The EC's hard-won progress in liberalization, common standardization, and common type approval will be in vain if the Telecommunications Administrations are allowed to subsidize either equipment sales or competitive services with revenues from monopoly services.
- In order to achieve the goals set forth in the Green Paper, the

EC must ensure that non-PTT suppliers of both competitive services and equipment have equitable access to the network. For example, in the area of competitive services, such access should be ensured by Open Network Provision.

- We also believe the Community should make an explicit commitment to place European Telecommunications Administrations under the GATT Government Procurement Code, and to agree on expanding the Code to include telecommunications services.
- The United States encourages the Commission to think broadly about what can be done to further promote the rapid internationalization of trade in telecommunications services through Uruguay Round negotiations on trade in services.
- We believe that the Community's objective to develop its telecommunications market can best be established through international competition in which EC and non-EC firms, including those of the U.S., are allowed to participate. This should apply to the provision of services and to the procurement of both network and terminal equipment.
- One of the most significant shortcomings in the proposals for liberalization is in the area of provision of network equipment. It is the position of the U.S. Government that the EC should accelerate its action program to open the market for network equipment just as it is envisioned for terminal equipment and competitive services.
- We support the Commission's efforts to realize a broad liberalization in the area of services. It must be said, however, that the United States sees a significant divergence in the Green Paper's provisions for reserved voice telephony services and its more liberal provisions for competition in other services. Much remains to be accomplished in specifying those areas to be opened to competition.
- The United States Government supports the Commission's view that there should be unrestricted provision of terminal equipment. However, we are especially concerned that the Commission's recommendations do not focus on opening EC markets to international competition. This operates directly to the disadvantage of users and manufacturers. As the Green Paper notes (p.52), "an excessively restricted structure of supply deprives the emerging technologies of the creative impulses of a competitive market."
  - o Thus far the type approval scheme relies upon test data generated only by European testing laboratories. We are concerned that this places non-EC producers and laboratories at a disadvantage.

- o We urge that government procurement be opened up for conventional terminal equipment as rapidly as for new terminal equipment.
  - o A key to the promotion of competition is a restriction on the boundaries of what constitutes the Telecommunications Administrations' networks and, conversely, a broad definition of what constitutes the customers' premises.
- The United States also urges the Commission to further examine the present standards-setting and standards-implementation procedures in the Community.
- o We believe that an open standards-development and frequency allocation process allowing for the direct and equal participation of all interested parties, including but not limited to manufacturers, user groups and PTT administrations, is an essential prerequisite for dynamic competition.
  - o The United States strongly supports the use of a "no harm to the network/spectrum" rule as the basis for approving terminal equipment.
  - o The United States welcomes the proposal to create a European Telecommunications Standards Institute. However, such an institute should provide for input from both European and non-European users and manufacturers in the standards-setting process, and avoid diverting efforts to achieve international standardization.
- Regarding the provision of mobile radio and satellite equipment and services, areas of particular importance to the future of the telecommunications industry, the United States urges the Commission to continue its laudable efforts to open competition in these areas. We believe that competition in these areas should not merely include the provision of services by private firms, but also the provision of equipment to both the infrastructure and to the users by private suppliers.
- We believe that the criteria by which the Commission pursues its competition policy towards telecommunications should be no more burdensome than that which is applied to other sectors, and should not discriminate with regard to nationality or country of origin.

We welcome the Commission's initiative toward fostering a more open and competitive telecommunications market in Europe. In addition

to our comments on the Green Paper, we also have questions which we hope to have an opportunity to clarify at the next U.S.-EC plenary meeting on telecommunications in early 1988. We appreciate the opportunity to comment on the Green Paper's far-reaching proposals, and offer the comments herein in a spirit of constructiveness and cooperation.

## II. NETWORK EQUIPMENT

It is the position of the United States Government that the EC should accelerate its action program to open the EC market for network equipment just as rapidly as for terminal equipment and competitive services.

The United States Government is concerned that the EC Green Paper, while recognizing in principle the need to open the market for network equipment in order to complete the "internal market" plan by 1992, does not include specific proposals to adequately address this goal.

Because network equipment is the foundation for the infrastructure, lack of competition in this important market segment has serious implications for the telecommunications equipment and service sectors. Advanced telecommunications networks require efficient, feature-rich hardware and software which are best provided in open markets. The same advantages that will accrue to both the providers and the users of services from the establishment of a competitive market for terminal equipment are also available in the network equipment market.

We are concerned that the EC Commission postpones consideration of a directive for network equipment until 1989 and only proposes that the current Recommendation (84/550) be expanded to include 40 percent of network equipment. We are concerned that this pace is too slow and that PTTs may not adhere to even this minimal recommendation.

The United States strongly encourages the Commission to include network as well as terminal equipment in the initiative that intends to convert Recommendation 84/550 to a directive. We also encourage the Commission to specify that procurement in the EC should be fully open to international competition, including non-EC suppliers.

### III. PROVISION OF TERMINAL EQUIPMENT

The United States Government is pleased to note in the Green Paper that the Commission is determined to open up the terminal equipment market to fair and open competition. The United States is supportive of these efforts and agrees with the Commission that progress is being made. However, as Deputy U.S. Trade Representative Michael B. Smith noted in his September 22, 1987, letter to DG XIII Director General Michel Carpentier, the United States continues to be concerned that the Commission's recommendations do not focus also on opening EC markets to international competition. U.S. Government analysis of the Green Paper's proposals, and the specifics of the Community policies to date, reinforce the U.S. opinion that the Commission has promoted a policy that favors European suppliers and businesses in the development of the Community's telecommunications market. Our specific concerns and comments follow.

The U.S. supports the Commission's efforts to use its authority under Article 90(3) to enforce the competition provisions of the Treaty of Rome and to keep the Member States from extending their State monopolies to terminal equipment. In the Commission's quest for liberalization of the terminal equipment market, however, the United States encourages the Commission to promote solutions that allow U.S. manufacturers, as well as Member State manufacturers, to sell directly to European users in all Member States.

The United States is concerned that the EC's plans for a type approval scheme will discriminate against U.S. suppliers and businesses. The type approval effort provides for reliance upon test data developed by European testing laboratories. Despite repeated U.S. requests, the EC will not provide assurances that similar treatment will be accorded to U.S. laboratories. Ambassador Smith stressed the fact that Member States should be authorized to approve non-European laboratories to provide test data under the EC's type approval scheme. Furthermore, the United States believes that the type approval scheme should include manufacturers' self-testing, and that testing requirements should be limited to "no harm to the network" and safety.

The EC should promote a system permitting the attachment of any terminal equipment to the network if that equipment meets minimum no harm to the network and safety standards.

The U.S. is supportive of the Commission's desire to replace Recommendation 84/550 with a directive. However, the United States believes the proposed directive on this issue should open public telecommunications contracts to international, and not just intra-European, competition.

We are concerned that only new terminal equipment will be treated in the proposal for a directive. Full opening for conventional terminals will be reached progressively (40 percent by 1989 and 100 percent by 1992) and by a separate directive "after careful discussion and evaluation of mutual benefits and of the results obtained in this sector" by the current recommendation (p. 131). The U.S. wishes to point out that the U.S. terminal equipment market is open to all European terminal equipment, new or conventional. We hope the Commission will consider these points when drafting the proposal for a directive.

In sum, while replacing Recommendation 84/550 with a directive would represent further progress in the Commission's effort to introduce transparency into the procurement procedures of the Telecommunications Administrations, the U.S. Government urges that U.S. suppliers be included among those eligible to participate. Even if PTTs are directed to allow U.S. terminal equipment companies to tender for their contracts, we are concerned that conventional terminal equipment procurement will not be meaningfully opened up for some time, due to (1) difficulty in reaching consensus on NETs, and (2) an unclear Community-wide definition as to where the line between new and conventional terminal equipment should be drawn. These difficulties could be alleviated by allowing NETs for conventional equipment to include grandfathering and a transition period.

The EC's suggestions regarding the provision of terminal equipment may fail to ensure competition among suppliers. A key to the promotion of competition is a restriction on the boundaries of what constitutes the Telecommunications Administrations' networks and, conversely, a broad definition of what constitutes the customer's premises.

The United States is concerned that in reaching its goals, the EC will adopt rules that encourage only limited competition. Specifically, the dividing line between terminal and network equipment will likely validate the control that Telecommunications Administrations currently have over equipment on customers' premises. An example of this policy is the continued role for Telecommunications Administrations in leasing customers the first telephone.

IV. DEVELOPMENT OF EUROPEAN STANDARDS

Suppliers should benefit from the Green Paper's proposals provided:

- the development of European standards is based on existing international standards at their current level;
- a European Telecommunications Standards Institute is constituted on an open participation and procedural basis;
- open network interconnection rules are equitable.

The Commission notes that network interface specifications of PTTs will have to be mandatory based on NETs, ENs, ENVs, or other European regional standards. We are concerned that mandatory application of these specifications will create unnecessary and burdensome requirements which will hinder competitive suppliers of network equipment.

The effort to draft European standards should be open to direct and equal participation by all interested parties, including foreign-based manufacturers and users, as is the case in the United States. The proposed Institute should not divert attention from international standardization. In carrying out its activities, it should be open to participation by U.S. industry. Currently, industry experts are permitted only limited participation in key European standards bodies (i.e., CEN, CENELEC, CEPT and TRAC). In cases where participation is allowed, experts from U.S. companies are not. Similarly, the United States believes that all interested parties should be involved in the development of open standards for interconnecting with networks. Of equal importance, mandatory European standards should be based on protecting networks from harm and should not dictate interoperability requirements.

## V. PROVISION OF SERVICES

### Reserved Services

In the United States, the Federal Communications Commission has promoted competition in the provision of private and public interstate and international common carrier services. The U.S. experience strongly suggests that the goal of promoting universal service is not inconsistent with the development of a competitive telecommunications market structure. The introduction of this competition has led to substantially lower prices for competitive common carrier services and to increased use of the U.S. telephone network. Indeed, since 1984, interstate long distance rates have declined by thirty percent in the United States and interstate long distance usage has increased an average of 12.9 percent per year. At the same time, the subscriber penetration level in the United States has increased from 91.8 percent in 1984 to 92.3 percent today.

The United States supports, and has authorized, the introduction of private cable and satellite facilities in the North Atlantic. Moreover, the U.S. has authorized multiple international voice and record carriers to provide service between the United States and the EC Member States. Therefore, the United States strongly urges that the development of any policies by the EC or any of its Member States concerning the provision of international telecommunications services between Europe and the United States recognize and accommodate the interest of the United States in the competitive provision of international telecommunications facilities and services.

In as much as the U.S. experience suggests that improved responsiveness to user requirements and greater network operational efficiencies are possible with competition in basic services, we believe reserving all voice telephony services to the Telecommunications Administrations may be premature. However, if compelled to do so, the EC should ensure that Member States reserve for Telecommunications Administrations the provision of no more than voice telephony. Leaving this situation unresolved will result in a lack of competition for competitive services which will limit innovation and growth in Europe, frustrate the formation of an internal market and constitute a disincentive for service providers and users.

The problem is compounded by the Commission's acceptance of the fact that "...because of changing technological developments, this necessarily means that the (reserved and competitive) categories are fluid." Providers of competitive services would have no guarantees that their services would not become a reserved service, and would have no ability to judge the future conditions

of real competition.

Finally, the experience in the United States has been that the exclusive provision of the network infrastructure is not necessary in order to safeguard its integrity. Since the Green Paper states that it seems likely that the positions in the Member States will converge on maintaining exclusive provision of network infrastructure on their territory by a single Telecommunications Administration or a very limited number of Administrations, we would encourage those Member States that do grant their PTTs such exclusive provision to reconsider the premises upon which such a system is based. In this respect, we also strongly support the Commission's determination to see that the exclusive network infrastructure provision is narrowly defined. In addition, in the Commission's consideration of satellite and mobile communications infrastructure, we would strongly urge that those infrastructures be fully competitive.

#### Competitive Services

In the United States, enhanced service providers are not required to obtain a license, or to register before offering their service. Moreover, enhanced service providers need not file tariffs; in short, they are unregulated. The U.S. Government believes the EC should focus on developing a similar approach.

Indeed, the U.S. Government strongly endorses the opening of the competitive services market to non-PTT, including foreign, service providers. PTT provision of competitive services must be closely monitored and safeguards should be developed to ensure against cross-subsidization of competitive services by revenues from monopoly reserved services. We also urge non-discrimination in the treatment of non-PTT and foreign service providers, i.e. equal terms and conditions for all competitive service providers.

The United States opposes the EC Green Paper acceptance of usage-sensitive rates on leased lines in order to protect the financial viability of PTTs and prevent "cream-skimming" of voice traffic. Cost-based tariffs and the elimination of restrictions on use of leased lines are among the most crucial U.S. market access objectives. As presently formulated, the recommendations included in the EC Green Paper do not adequately address these concerns.

We do not believe that usage sensitive tariffs are an effective way to prevent voice cream-skimming. They would prevent voice resale, but at the same time, will produce a negative impact on service offering and on users. Moreover, restrictions on the use of leased lines may actually reduce the potential revenues which PTTs could realize from a fully liberal policy.

WATTC

The U.S. Government is concerned that while the Commission is proposing the liberalization of services, the traditional telecommunications representatives to the ITU/CCITT from a number of EC Member States have been leading efforts to extend international regulation, and hence their own authority as Telecommunications Administrations, over new international telecommunications services through the December 1988 World Administrative Telegraph and Telephone Conference (WATTC-88). The United States encourages the Commission to work to assure that broad Member State and EC interests are reflected in the WATTC process.

VI. MOBILE RADIO

In the United States, the mobile radio communications field consists of two divergent classes -- the first being locally licensed, competitively supplied private systems for specific private purposes, and the second being public systems which provide public mobile telephone and radio paging services.

In the U.S., we have found that private systems should only be subject to a minimum of regulations to assure efficiency in the use of radio spectrum and the avoidance of interference with other systems and services. The imposition of national, Community-wide or European system standards for signaling protocols, data rates, etc. should be avoided to encourage new technological opportunities. The U.S. firmly supports "no harm to the spectrum" as the only standard necessary for private radio communications systems.

Local private mobile radio systems should be encouraged through liberal practices for the eligibility and licensing of private users. Regulatory provisions should permit the introduction of third party private systems that offer competitive communications services to private groups throughout the Community. Regulatory provisions should also permit local private mobile communications systems to interconnect to the public switch telephone networks on a reasonable basis.

The United States supports competition in the mobile radio communications area, but asserts that this competition should not merely include competition in providing the service to the public, but also to providing the supply of equipment to both the infrastructure and to the users.

The United States believes that the conditions for a Community-wide mobile communications system should not impede non-EC companies from providing mobile services and equipment to the Community. We urge that more than one company be licensed to provide mobile radio service in a given geographic area, and that non-EC companies be eligible to apply for licenses to operate private systems.

While some interoperability is desirable for cellular systems in order to promote EC-wide compatibility, interoperability should not be a requirement for all mobile radio systems, particularly local, private mobile radio systems. In the latter case, while we agree that interoperability should be available as an option for the user, an interoperability requirement will unacceptably limit the range and use of services by users, and could limit the selection of services and equipment.

VII. SATELLITE

The United States Government is pleased that the EC Commission recognizes that competition should exist in the ownership and operation of satellite ground stations. We urge the EC to move even further in encouraging competition in ownership of separate satellite systems.

The primary competition that exists in the area of satellites exists not from competing satellite systems but from cable technology. With the recent advances in fiber optics, cable offers both increased capacity and flexibility of services.

A fundamental principle of separate systems is that once a party buys a transponder, it is not receiving a satellite service, but has bought equipment that becomes part of its infrastructure. A PTT could be the party to purchase the transponder in a manner analogous to the purchase of a cable company. While a separate system may put pressure on INTELSAT's and EUTELSAT's "monopoly", it need not challenge a domestic Telecommunications Administration's monopoly, since the separate space segment and access to it may still be controlled by the domestic monopoly.

We recognize that EUTELSAT and other European satellite systems are examples of the large number of separate systems that are already authorized in Europe. We hope that the EC will promote similar competition in Europe with other separate satellite systems. Furthermore, the United States has authorized the introduction of private cable and satellite facilities in the North Atlantic; therefore, we strongly urge that the development of any policy by the EC concerning the provision of international telecommunications services between Europe and the United States promote competitive provision of international telecommunications facilities and services.

In the United States, the increase of competition, with its consequences of new and more numerous service options and better services at lower rates, has extended beyond the terrestrial services. Domestic satellites for communications have been licensed under an "open entry" policy since 1966. Recent policies first allowing carriers, and then non-carriers, to own and operate their own satellites have spurred growth and innovation in this field. Rapid technological advances allow for ever greater benefits, as reduced spacing provides more satellite "slots", and narrowband and spotbeam technologies allow for greater efficiency in spectrum use.

### VIII. CONCLUSION: THE U.S. PERSPECTIVE

As noted in the introduction, the United States welcomes the broad liberalizing objectives of the Green Paper and their pro-competitive thrust. We hope that the specific comments provided herein will be useful to Commission efforts to accomplish these goals.

By way of conclusion, however, we believe it important to emphasize to the Commission the perspective in which the Green Paper must inevitably be viewed in the United States.

The U.S. experience has convinced us that the goals of providing users with the latest and most innovative technologies, the most reliable networks, and the broadest range of quality services, can only be accomplished in a telecommunications environment that is fully liberalized and open to competition. In order to ensure the conditions for such an environment, governments should mandate policies which will lead to transparency at every level.

Having already gone through the experience of liberalization, thereby opening the U.S. telecommunications market to fair competition, the United States is compelled to approach the EC Green Paper in a trade as well as telecommunications policy context.

As telecommunications takes on an increasingly important role in the competitiveness of national economies, and as the world's major telecommunications companies become increasingly global entities, trade policy must seek to ensure that the provision of telecommunications equipment and services is conducted through open and fair competition.

The United States Government appreciates that the Green Paper is essentially addressing the internal market, yet its emphasis on "safeguarding the financial viability of Telecommunications Administrations" and "preserving the monopoly of PTTs in the provision of network equipment" leads us to be concerned that the Commission views telecommunications in a perspective other than one of open and fair trade policy. While the safeguarding of telecommunications authorities may serve to meet certain European social and public policy goals, it also carries a strongly protectionist connotation, and at a time when European telecommunications firms are expanding rapidly into the U.S. market.

It is the hope of the United States Government that this emphasis on open international competition will serve to influence the Commission to emphasize trade policy goals in proposals to liberalize the European market. The United States urges the Community to adopt these goals of open and fair international competition more rapidly than the 1992 timeframe set forth in the Green Paper. It is only in this way that both Europeans and

Americans will derive the full benefits of new technological innovations, and the most advanced networks providing the maximum of global services.



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1 December 1987

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Dear Sirs,

Re: Green Paper on the Development of the Common Market for  
Telecommunications Services and Equipment

Unilever has welcomed the initiative taken by the Council to contribute to a useful and large-scale discussion on telecommunications Services and Equipment by issuing the Green Paper.

The general comments of Unilever regarding the Green Paper have been communicated via the International Telecommunications User Group INTUG, of which Unilever is an associate member. There is one element, however, of special interest to Unilever which I would like to bring to your attention separately.

Unilever does not intend to have an own European network for voice and data communications. The Group has decided to make best use of services provided by Facilities Management suppliers.

According to the Green Paper a Public Telecommunications Administration (PTA) could provide us with the service of a network without any legal limitation. That PTA could set up a Unilever network, combine our voice and data traffic, even when no processing at all would take place in that network, and for our benefit make economical use of circuits by combining our traffic with other traffic, even without us knowing that.

At the moment only the UK allows other network suppliers than a PTA to arrange such facilities. The Green Paper indicates that also in future such a service of combined voice traffic and non-added value data transmission should exclusively be provided by a PTA.

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This may force our Company to set up and maintain an own network. Moreover, it is unlikely that PTA's will be able to cooperate sufficiently well to provide us with a service on the large international scale that we require.

We therefore object to this element in the Green Paper. It is clear that no open competition will be allowed if the ideas of the Green Paper would be implemented without change.

This would be to the detriment of European business, and in the end also to the disadvantage of national administrations.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'H. Meij', written in a cursive style with a long horizontal stroke extending to the left.

Prof. H. Meij

Copy to: Mrs. N. Smit-Kroes  
Mr. J. Butcher



STATEMENT  
of the  
UNITED STATES COUNCIL  
FOR INTERNATIONAL BUSINESS

ON

THE EUROPEAN COMMISSION'S GREEN PAPER  
ON THE DEVELOPMENT OF THE COMMON  
MARKET FOR TELECOMMUNICATIONS  
SERVICES AND EQUIPMENT

DECEMBER 1987

UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS  
1212 Avenue of the Americas, New York, New York 10036. (212) 354-4480



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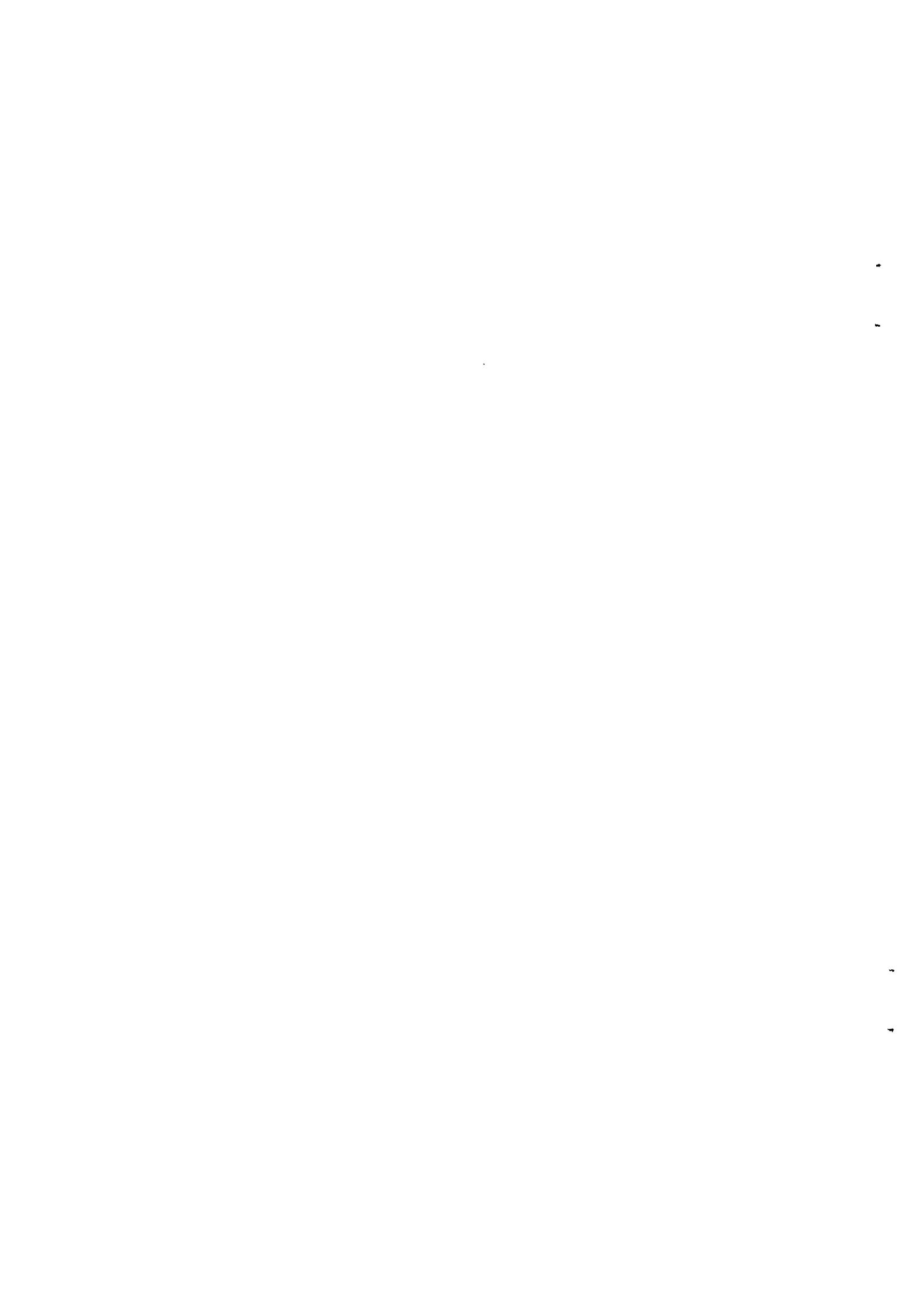
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## S U M M A R Y

The United States Council for International Business is pleased to have the opportunity to comment on the European Commission's "Green Paper on the Development of the Common Market for Telecommunications Services and Equipment." We would like to express our support for the pro-competitive recommendations contained in the Green Paper. We are pleased that the European Commission strongly endorses the need for a competitive marketplace for telecommunications services and equipment.

Efforts by the European Community to reduce inconsistent and restrictive country policies that hamper the ability of all firms to compete on a worldwide basis are extremely beneficial. As the Community begins to formulate the details of common policies on telecommunications equipment and services, the U.S. Council urges that all interested parties, including users, service providers, and equipment manufacturers, be consulted directly throughout this process. The success of the Commission's initiatives will be enhanced if these views are properly and effectively addressed.

In addition to providing its own comments, the U.S. Council would like to express its support for the comments submitted by the International Chamber of Commerce. We hope that our comments and those of the ICC will be helpful to the Commission as it begins to determine how to implement the Green Paper's objectives.

### 1. SEPARATION OF REGULATORY AND OPERATIONAL FUNCTIONS

We support the Commission's position that there must be a clear separation of regulatory and operational functions. We believe that appropriate institutional and procedural mechanisms need to be established at the Member State level and, preferably outside the domain of the Telecommunications Administrations. Vigorous application of the Community's competition policy to Administrations will be essential.

### 2. TELECOMMUNICATIONS EQUIPMENT

#### Terminal Equipment

User and network safety should be the only criteria used to develop technical specifications for equipment type approval. Additional requirements to ensure functionality, such as interworking of terminals, should be constituted within the framework of voluntary compliance; otherwise, their inclusion in the type approval process will increase the cost and time of getting new products to the marketplace.

We also believe that manufacturers should have the option to self-verify a product or have independent testing laboratories perform the verification for them. A time limit should be set for completion of the testing process by laboratories. In addition, mutual acceptance of test data should be extended to test data generated outside the Community.

Furthermore, all equipment located on the customer's premises, including the first telephone and digital and analog network termination equipment, should be open to competition.

#### Network Equipment

We urge the Commission to carry out its plans as soon as possible to replace Council Recommendation 84/550, pertaining to public contracts for switching and transmission equipment, with a Directive and accelerate its implementation. We also urge the Commission to ensure that all suppliers, regardless of their nationalities, are covered by its initiatives.

### 3. TELECOMMUNICATIONS AND INFORMATION SERVICES

#### Provision of Network Infrastructure

We agree that Telecommunications Administrations must be assured of the ability to carry out their public service obligations, but we believe that exclusive provision of the network infrastructure may not be the only or best way to carry out these obligations. Alternative provision and operation of infrastructure should not only be permitted but encouraged. Two-way satellite communications systems are an example of a good candidate for competitive provision.

#### Exclusive Provision: Reserved Services

We support the Commission's position that exclusive provision of telecommunications services should be narrowly defined and subject to periodic review. We believe that switched voice telephony should be the only candidate for exclusive provision. All other services should be provided on a competitive basis. In addition, we believe that there should be enough flexibility in the framework to allow voice resale in those countries that decide that it would be in the public interest.

#### Competitive Provision

We urge the Commission to act quickly to remove existing barriers so that value-added service providers based in one country will be able to serve directly the end-users in all Community countries. In addition, the Commission should not impose mandatory standards on competitive services because they will discourage innovation of new functions and subject service providers to unnecessary risks.

Nondiscriminatory access to the Telecommunications Administrations' networks will be essential to the development of competitive services. The participation of users and industry in the definition of Open Network Provision will be required to ensure that the needs of all parties are met and the use of the network is optimized. The Commission will need to require Administrations to provide equal access to the underlying transmission service at the same tariffs and conditions that they provide to their own competitive service entities.

The marketplace for competitive services will need to be safeguarded through either non-structural or structural mechanisms that detect and nullify opportunities for anti-competitive abuse and cross-subsidy. These safeguards are a necessary supplement to ONP because anti-competitive practices can continue regardless of the equality of the technical access.

We welcome the Commission's recommendation that tariffs should follow overall cost trends. We believe that cost-based pricing and the aim of universal service need not be incompatible goals. Cost-based pricing for universal services will encourage greater efficiency in the provision of the infrastructure.

We also believe that usage-sensitive tariffs for leased circuits and the banning of simple voice resale will not protect the financial viability of Administrations because they repress demand for the very services reportedly protected and, therefore, deny revenue to Administrations. Application of usage-sensitive tariffs for leased circuits imposes unjustified costs and measurement burdens upon both providers of private networks and Administrations.

#### 4. Standards Process/Institute

We believe that there is a need for users and industry to play an equal role with Administrations in developing telecommunications standards. Industry should be permitted to participate in CEPT meetings where action items and schedules are determined, and in the TRAC decision process on NETs.

We support the development of Community-wide NETs. We believe that the standards definition included in NETs should be harmonized with the most current versions of international standards. Unique national requirements proposed for inclusion in NETs should be eliminated or reduced to an absolute minimum. CEPT should also be urged to extend the current sixty day period for comment.

## 5. External Relations

### Relations with Trading Partners

We urge the Commission not to overlook the importance of opening the Community market to international competition. Creating a strong internal market by excluding non-European products and services will seriously hamper the competitiveness of European firms because they will not be able to benefit from innovations taking place elsewhere in the world.

### Relations with International Organizations

#### ITU

The Commission should extend special consideration to the question of whether the D Series Recommendations of the CCITT (dealing with permissible uses of leased lines) remain appropriate under the precepts of the Treaty of Rome and in light of the Green Paper's recommendations. These Recommendations are contrary to the Green Paper's positions regarding network infrastructure, reserved service provision, and competitive service provision.

The U.S. Council notes that, under the CEPT proposal for managed data network services (MDNS), Telecommunications Administrations would have the opportunity and incentive to exempt themselves from prohibitions of the D Series while prohibiting competitors from offering MDNS-like services. Such unfair application of the D Series Recommendations appears contrary to the Treaty of Rome.

#### WATTC

The U.S. Council would also urge the Commission to examine the Draft Regulations which have been prepared for the upcoming World Administrative Telegraph and Telephone Conference of the ITU. We believe that sections of these Draft Regulations run counter to the global deregulatory trends for services and contradict the Green Paper's intentions. The Commission should initiate discussions with a wide range of national policy makers, beyond Administrations, on the possible impact of these Draft Regulations.

#### GATT

The U.S. Council endorses the need for discussions on telecommunications in the GATT. We believe that many of the Green Paper's pro-competitive tenets will serve as the basis for future GATT discussions on telecommunications.

## INTRODUCTION

The United States Council for International Business appreciates the opportunity to comment on the European Commission's "Green Paper on the Development of the Common Market for Telecommunications Services and Equipment." We are pleased that the Green Paper strongly endorses the need for a competitive marketplace for telecommunications services and equipment and believe that it launches a thoughtful and critical debate on future European telecommunications policies.

The United States Council is a business policy-making association dedicated to promoting an open system of world trade, finance, and investment. As the U.S. affiliate of the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee to the OECD, and the International Organization of Employers (IOE), the U.S. Council represents American business interests in the major intergovernmental institutions and to the Executive and Legislative branches of the U.S. government.

The U.S. Council's Committee on International Information and Telecommunications Policy consists of users of telecommunications equipment and services, service providers, and equipment manufacturers. It espouses the business user perspective because it believes that the objectives of telecommunications policies should be to serve the needs of end-users in the most effective and efficient manner possible.

The committee seeks the establishment of an international information and telecommunications environment characterized by open and fair competition with minimal government intervention. It also tries to increase awareness within the U.S. and international business communities of the potential impact of information and telecommunications policies, laws, and regulations, and encourage their active participation to shape these policies.

The Green Paper clearly recognizes the impact that telecommunications policies have on the competitiveness of European firms and, ultimately, the future location of economic activities. Access to the most advanced and innovative telecommunications services and equipment will contribute to the efficient operation of companies. It will enable companies, both inside and outside the telecommunications industry, to adapt to the rapid changes occurring and incorporate the latest innovations into their products and services.

Since the trading system is now global in nature, inconsistent and restrictive country policies hamper the ability of all firms to compete on a worldwide basis. Therefore, we believe that efforts by the European Community to reduce these inconsistencies and restrictions are extremely beneficial. As the Community begins to formulate the details of common

policies on telecommunications equipment and services, the U.S. Council urges that all interested parties, including users, service providers, and manufacturers, be consulted directly throughout this process. The success of the Commission's initiatives will be enhanced if these views are properly and effectively addressed.

In addition to providing our specific comments below, the U.S. Council would like to express its support for the comments submitted by the International Chamber of Commerce on the Green Paper. We hope that our comments and those of the ICC will be helpful to the Commission as it begins to determine how to implement the Green Paper's objectives.

#### 1. SEPARATION OF REGULATORY AND OPERATIONAL FUNCTIONS

The U.S. Council agrees with the Commission that, in a true competitive environment, it will not be possible for Telecommunications Administrations to continue to be both a regulator and a market participant. There must be a clear separation of regulatory and operational functions, particularly if the Administrations wish to participate in the competitive marketplace. Even if they do not compete, separation of these functions is still required because a neutral arbiter will be needed to determine the public interest.

In our view, institutional and procedural mechanisms need to be established at the Member State level so that each member state may tailor them to its particular domestic situation. However, we believe that these functions can be best performed outside the domain of the Administration. Functions that will need to be carried out include:

- safeguarding fair competition (protecting against abuse of a Telecommunications Administration's position);
- ensuring nondiscriminatory availability of cost-based and reasonably priced basic transmission services;
- establishment of attachment policy to public networks for terminal equipment and requirements and procedures for type approval;
- establishment of fair interconnection policies to enable providers of competitive services to connect to public networks;
- ensuring adequate appeal procedures for disagreement with an Administration; and
- involving users in future regulatory decision-making processes.

The ability of Member States and the Community to monitor and enforce compliance and ensure transparency will be critical. Vigorous application of the Community's competition policy to Administrations will be essential.

## 2. TELECOMMUNICATIONS EQUIPMENT

### TERMINAL EQUIPMENT

The U.S. Council endorses the Commission's efforts to open the terminal market to competition. We also support the Commission's efforts to simplify the type approval process. However, we are concerned about the criteria to be used for type approval.

We support the approach of employing user and network safety as criteria for the technical specifications. However, additional requirements to ensure functionality, including the interworking of terminals, should be left to the marketplace and constituted within the framework of voluntary compliance. Suppliers will be motivated to ensure that any terminal equipment offered in the marketplace meets interoperability and functionality requirements; otherwise, their products will fail in the marketplace. Inclusion of interoperability requirements in the type approval process will increase the cost and time of getting new products to the marketplace.

The situation the European Community faces in trying to grapple with 12 different and sometimes incompatible telecommunications systems is not unlike the situation in the United States--although the U.S. is often perceived incorrectly as a single telecommunications system. There are over a thousand telephone companies throughout the fifty States that have their own systems. The fact that terminal equipment connected to a system in one state will function and interwork with services and equipment in another state is indicative of the success of U.S. voluntary compliance with interoperability and functionality requirements.

Furthermore, all users are best served by procedures in which a manufacturer has the option to self-verify a product against a standard set of criteria. In our view, costs of type approval under such an approach are reduced to a minimum, benefiting small manufacturers. Self-verification provides the greatest efficiency to both manufacturer and the Telecommunications Administration, and, as a result, to the user. We believe that the European Community should both authorize qualified manufacturers to perform this verification and recognize independent testing laboratories to perform it for manufacturers who do not elect to do their own testing.

The Commission should set a time limit for European laboratories to complete the testing process. Currently, the process can be delayed for an open-ended period, thereby discouraging the use of new equipment. Shortening the process will reduce costs and uncertainty for all equipment suppliers and, ultimately, benefit the users. In addition, the U.S. Council also urges the Commission to ensure that mutual acceptance of test data is extended to test data generated outside of the Community. Member States should be authorized to approve non-European laboratories to provide test data for type approvals. Otherwise, the Community's type approval procedures will impose an unfair burden on non-E.C. suppliers.

With respect to Network Termination Points (NTPs), the Commission should propose to the Council that the Recommendation on ISDN be amended so that all equipment located on customer premises including the first telephone and digital as well as analog network termination equipment be open to competition. Such action would be in accordance with the Commission's efforts to open fully the terminal market to competition and its prior action on cordless telephones and modems.

#### NETWORK EQUIPMENT

A truly integrated, competitive European market for telecommunications services and equipment would be incomplete without the inclusion of network equipment in the Commission's proposed Community positions. Because network equipment is the foundation for the telecommunications network infrastructure over which services travel and to which terminal equipment is attached, lack of competition in this important market segment has direct implications for telecommunications services and terminal equipment. The Commission has recognized that the development of a common market in network equipment has a direct correlation with an increase in the transparency of procurement procedures of the Telecommunications Administrations.

It is important to realize that an efficient market for network equipment is a concern of all companies that use basic telecommunications network services. The largest expenditure item in any company's telecommunications budget is for the use of basic telecommunications services, and the price and quality of these services is in part a function of the price and quality of the network equipment that produces them. An allocated or protected network equipment market directly affects the competitiveness of all telecommunications-dependent industries in Europe.

Toward that end the Commission seeks to accelerate the development of common specifications for network equipment and their use in public purchasing. The Commission is also considering replacing the Council Recommendation 84/550 with a Directive and accelerating its implementation. The U.S. Council urges the Commission to carry out these plans as soon as possible and ensure that these efforts will be extended to all suppliers, regardless of their nationalities. Further study will also be needed to develop and establish an effective compliance and surveillance mechanism.

3. TELECOMMUNICATIONS AND INFORMATION SERVICES

PROVISION OF NETWORK INFRASTRUCTURE

The Commission has accepted the continued exclusive provision of the network infrastructure by the Telecommunications Administrations, but notes that exclusive provision must be narrowly defined. The U.S. Council agrees that it will be important to establish the definition and scope of the public service mandate. We agree that Telecommunications Administrations must be assured of the ability to carry out their public service obligations, but we believe that exclusive provision of the network infrastructure may not be the only or best way to carry out these service obligations. Alternative provision and operation of infrastructure should not only be permitted but encouraged, particularly where provision of private, internal systems is involved or where infrastructure is unavailable from the Telecommunications Administrations.

In our view, a two-way satellite communications system is an example of a good candidate for competitive provision. Its unique properties could be exploited more fully under a competitive scheme. Consequently, we believe that these systems should not be subject to artificial regulatory constraints and urge the Commission to eliminate restrictions on competitive provision.

EXCLUSIVE PROVISION: RESERVED SERVICES

We support the Commission's position that exclusive provision of telecommunications services should be narrowly defined and subject to periodic review, provided that such reviews do not expand the range of reserved services offered by the Administrations in the future. We believe that switched voice telephony should be the only candidate reserved for exclusive provision by Administrations. Although there may be a voice element in other services, this fact should not be used as a justification by an Administration to expand its monopoly.

An Administration that wants to expand its monopoly beyond voice telephony to include other services should only be allowed to do so if the government decides that it would be in the users' interest. The Commission should ensure that the so-called "new basic services", such as packet-switched data networks, circuit-switched data networks, teletex, electronic mail, and videotex, offered by some Administrations are provided on a competitive basis and not defined as reserved services.

While some countries may opt for exclusive provision of switched voice telephone service, others may want to open this service to competition. There should be enough flexibility in the framework to allow voice resale in those countries that decide it would be in the public interest. Rather than serve to divert important revenues from Administrations, voice resale could result in increased demand for services and infrastructure.

The U.S. Council also urges the Commission to ensure that Member States develop parallel definitions of reserved services. In addition, without some guarantee that a newly offered service will not be reclassified later as a reserved service, service providers will be reluctant to offer them, and thus, deny users the benefits of new innovations.

#### COMPETITIVE PROVISION

The Commission proposes unrestricted provision of all services other than those basic services explicitly reserved to the Telecommunications Administrations. These competitive services, which would include value added services, would be provided within and between Member States in competition with the Administrations.

We are pleased that the Commission has recognized that the telecommunications environment has changed dramatically and that competition is now an essential ingredient. The new policy being advocated in the Green Paper wisely relies on the competitive marketplace to overcome fragmentation within Europe and provide a unified basis for European strength. It also recognizes the need for nondiscriminatory access to and use of the basic transmission infrastructure for all interested parties in order to meet a diversity of users' needs.

We urge the Commission to act quickly to remove the existing barriers that are fragmenting the telecommunications marketplace among the Member States, so that value-added service providers based in one country will be able to serve directly the end-users in all Community countries. A consistent infrastructure across the Community will facilitate the offering of Community-wide value-added services by multiple providers.

#### Standards requirements

The success of a competitive marketplace for value-added services is dependent on the establishment of interface standards for attachment to basic telecommunications networks. The application of international standards to the network infrastructure benefits both end-users and value-added providers. However, the imposition of mandatory standards on competitive services will be counterproductive to achieving the Commission's desire for widespread service availability.

Mandatory compliance could limit value-added services to a common set of application features and discourage innovation of new functions. Even if the provision of features beyond the mandatory standards were permitted, competitive providers would be inhibited from tailoring their services to marketplace requirements by network design and structure constraints. Such constraints will discourage innovation of new functions. Furthermore, the imposition of mandatory standards may subject service providers to unnecessary risks. Costs will be incurred whether or not demand materializes, and unless sufficient demand is realized for the standardized access, it would not be sustained as a viable business offering.

Users, in turn, would then have a limited variety of services from which to choose. For example, users who need only a subset of the fixed set of functions might be forced to pay for more than they need or forego the use of the service. Or, users who require greater function than offered would not be given an adequate solution to their needs.

Implicit to the operation of a competitive marketplace for value-added services is that providers will strive to meet marketplace needs, both in the specifics of the application they offer and in their prices. Value-added services are, therefore, inherently customized and not standardized services. Mandatory compliance with specified technical standards would not permit the economic forces of competition to work fully. Standards have a place within the competitive marketplace, but compliance should be voluntary, otherwise the benefits of competition will be lost.

We also caution the Commission with respect to the extensive set of standardized universal services it proposes be offered by the Telecommunications Administrations. Has a valid demand for these standardized services been demonstrated? If such services incorporate a multitude of functions beyond those necessary for communication, the development and implementation of these services by Telecommunications Administrations may consume public funds in ventures that may not be justified. If incentives such as subsidies are given, the competitive marketplace can no longer operate.

In order to facilitate the rapid introduction of a variety of value-added services on a Community-wide basis, we suggest the Commission refrain from imposing standards on competitive services and restrict mandatory application of international standards solely to the infrastructure. Value-added network providers will have the natural incentive to meet a multinational marketplace demand if they are allowed to participate fully in that marketplace with the underlying basic transmission service available at cost-based tariffs on a nondiscriminatory basis.

#### Requirements for use of the network infrastructure

Nondiscriminatory access to the Administrations' networks is essential to the development of competitive services. The Commission's plans to ensure this access by establishing Open Network Provision (ONP) and seeking acceptance by the Administrations of clear obligations to interconnect with and provide access for trans-frontier providers are very positive steps. To ensure that the needs of all parties are met and the use of the network is optimized, participation by users and industry in the definition of ONP will be critical.

In order to have true ONP, the Commission will need to require Administrations to provide equal access to the underlying transmission service at the same tariffs and conditions that they provide to their own competitive service entities. In addition, the Commission should examine the existing usage restrictions, such as those on resale and shared use, third party traffic, and interconnection of public and private networks. Some Administrations also impose usage-sensitive tariffs on leased lines or

force service providers to build up their offerings over the public switched networks. These restrictions, if continued, will serve as serious impediments to the development of competitive services.

Furthermore, the Commission should also extend special consideration to the question of whether the D Series Recommendations of the CCITT (dealing with the permissible uses of leased lines) remain appropriate under the precepts of the Treaty of Rome and in light of the Green Paper's recommendations.

#### Safeguarding competition

Participation of Administrations in the marketplace for competitive services should be welcomed and encouraged as beneficial to international users, so long as such participation is conducted fairly and in a manner that fosters competition. The operation and provision of competitive services by Administrations should be accomplished pursuant to competitive safeguards that detect and nullify opportunities for abuse of their dominant position through anti-competitive practices and cross-subsidy. These safeguards are a necessary supplement to ONP because anti-competitive practices can continue regardless of the equality of the technical access.

Safeguards can include a range of non-structural mechanisms designed to identify and nullify opportunities for anti-competitive abuse and cross-subsidy. This nonstructural approach to safeguards requires more than a periodic review to ensure compliance. Oversight on a continuous basis by an independent regulatory authority will be needed. Another possible safeguard would be to require an Administrations to conduct its competitive activities through structurally separate subsidiaries acting in an arm's-length manner with its Administration parent.

Non-structural safeguards can include cost allocation and accounting rules for reserved and competitive services, as well as a number of non-discrimination requirements to ensure that an Administration's competitive enterprise takes its underlying facilities and is otherwise treated pursuant to the same terms, conditions, and principles as are applied to non-affiliated competitors. Non-discrimination requirements necessitate the provision of information and timely reporting by Administrations.

#### TARIFF PRINCIPLES

The U.S. Council welcomes the Commission's recommendations that telecommunications tariffs should follow overall cost trends and that a rebalancing of tariffs will be inevitable. The Green Paper correctly notes that the strategy for the Community's economic development is dependent upon the correct development of tariff principles among the Member States. Cross-subsidization can impede this development and restrict growth and economic development.

We would like to point out, however, that certain aspects of the Commission's recommendations appear to be in conflict with this overall policy. The paper expresses concern that universal service considerations will temper this rebalancing of rates. We would submit that cost-based pricing and the aim of universal service need not be incompatible goals.

Cost-based pricing for universal services will eliminate the burden placed on large users of telecommunications services resulting from cross-subsidization and will encourage greater efficiency in the provision of the infrastructure. Universal service providers should be able to receive a sufficient return to encourage them to continue to invest in network development. If additional incentives are required, then nonprice-related mechanisms such as incentive-based programs or financial assistance can be provided.

The Green Paper also advances the premise that the financial viability of the Telecommunications Administrations needs to be protected. In order to provide this protection, the Commission accepts the adoption of usage-sensitive tariffs for leased circuits and the banning of simple voice resale as appropriate alternatives. Restrictions on the simple resale of voice service may provide a manageable short term solution; however, neither of these alternatives represents acceptable ultimate solutions. They are not solutions because they repress demand for the very services reportedly protected, and, therefore, deny revenue to Telecommunications Administrations.

In particular, the Commission should note that the application of usage-sensitive tariffs for leased circuits imposes unjustified costs and measurement burdens upon both providers of private networks and Administrations. Certainly, the profitability and international competitiveness of European firms are thus negatively affected. The U.S. Council urges the Commission to maintain cost-based, flat rates for leased lines and ensure that the availability of these circuits is guaranteed throughout the Community.

#### 4. STANDARDS PROCESS/INSTITUTE

The Green Paper briefly discusses the possibility of establishing a standards institute. Although it does not provide much information about the institute, this body, properly constituted, may be a good way to ensure direct user and industry participation in the development of standards in the long term. However, the Commission should ensure that the institute does not duplicate the work being done in other standards bodies or diverge from established international standards.

There is also a need for users and industry to play an equal role in developing those standards created outside the framework of the standards institute. The U.S. Council notes that the Commission has delegated much of the responsibility for standards-setting to the CEPT. Inasmuch as CEPT is an association whose membership is comprised of Telecommunications Administrations, it is likely that the development of standards may not

meet the needs of users, manufacturers, and service providers, but rather, may reflect only the views and needs of the Administrations.

While organizations such as ISO and CCITT recognize that the development of acceptable industry standards demands the participation of all interested and affected parties, CEPT has only recently permitted industry participation, and only on a limited basis through national delegations and manufacturer associations. This action represents an important step in the right direction, but there remains much room for improvement.

Industry should be permitted to participate in CEPT meetings where action items and schedules are determined, and in the TRAC decision process on NETS. Participation of industry groups should be extended to include qualified user bodies. In addition, no arbitrary limitations should be imposed on the number of industry representatives allowed on national delegations, otherwise Member States cannot call upon adequate support of private sector technical expertise, and instead, their interest may be dominated by Telecommunications Administrations who are not necessarily obliged to represent country positions.

#### Normes Europeennes de Telecommunication (NETs)

The U.S. Council supports the development of Community-wide NETs. We believe that the establishment of NETs will facilitate the removal of unique and different national requirements for the attachment of customer premises equipment to public telecommunications networks and thereby promote the establishment of a pan-European market in terminal equipment. However, we are concerned with a number of aspects of the current process for the development and approval of NETs.

In particular, the standards definition included in NETs should be harmonized with the most current versions of international standards. Approval of NETs based on outdated definitions will necessitate further changes in the near future and thus will only serve to add to the burden on manufacturers by requiring compliance with a temporary solution. Therefore, we would urge the Commission to recommend that the TRAC ensure that the latest CCITT definitions are incorporated prior to approval of NETs.

Furthermore, unique national requirements proposed for inclusion in NETs should be eliminated or reduced to an absolute minimum. The inclusion of these national requirements contradicts the essential goal of the NET program, which is to harmonize such disparate national requirements. In addition, the U.S. Council recommends that NETs, once defined and approved, should serve as the sole requirement for type approval. No additional requirements should be imposed by a country, otherwise the benefits of harmonization will not be realized.

The U.S. Council also urges the Commission to encourage CEPT to extend the current sixty day period for comment. We believe that this period is not sufficient time to conduct a comprehensive technical review and to consolidate replies.

5. EXTERNAL RELATIONS

RELATIONS WITH TRADING PARTNERS

While the Commission is primarily concerned with creating a strong internal market for telecommunications equipment and services, it cannot overlook the importance of opening the Community market to international competition. Creating a strong internal market by excluding non-European products and services will seriously hamper the competitiveness of European firms because they will not be able to benefit from innovations taking place elsewhere in the world. Unfortunately, though, the Community may be tempted to wait for GATT negotiations on telecommunications before it opens its telecommunications markets to international competition. If such a delay does occur, it can only serve to undermine the Green Paper's objectives.

RELATIONS WITH INTERNATIONAL ORGANIZATIONS

International Telecommunication Union

The Commission should extend special consideration to the question of whether the D Series Recommendations of the CCITT (dealing with the permissible uses of leased lines) remain appropriate under the precepts of the Treaty of Rome and in light of the Green Paper's recommendations. It would appear that the time has come to revisit the legality and legitimacy of the D Series Recommendations, particularly D.1, D.5, and D.6.

The Council believes that these Recommendations are contrary to the Green Paper's positions regarding network infrastructure, reserved service provision, and competitive service provision. In addition, the D Series Recommendations involving private leased facilities provide substantial incentives and opportunities for Administrations to deter and frustrate competition and to engage in cross subsidy.

In the case of the CEPT proposal for managed data network services (MDNS), Administrations jointly offering MDNS to multiple, unaffiliated customers would exempt themselves from the prohibitions of the D Series Recommendations regarding resale and shared use of a leased line. However, these same Administrations would have the opportunity and incentive to prohibit unaffiliated competitors from using leased facilities to offer MDNS-like services to multiple, unrelated customers--as a violation of the D Series provisions prohibiting uses of leased lines that "infringe the [transmission and switching] functions of an Administration." Such unfair and obvious result of application of the D Series Recommendations appears contrary to the Treaty of Rome.

World Administrative Telegraph and Telephone Conference

We would urge the Community to examine closely the Draft Regulations which have been prepared for the upcoming World Administrative Telegraph and Telephone Conference of the International Telecommunication Union. Sections of these Draft Regulations, in our view, run counter to the global deregulatory trends for telecommunications services and contradict the spirit and intention of the Green Paper. In particular, the Draft Regulations, if adopted, could create an environment in which a service provided between Member States would be more burdened by regulation than a service provided solely within a Member State--a result that is clearly inconsistent with the Treaty of Rome. We also note that a rigid set of WATTC regulations could be used by Administrations to impede achievement of the objectives of the Green Paper.

Given the short time available before the Conference, we urge that the Commission take steps to alert Member States to the possible impact of the Draft Regulations. We suggest that the Commission might prepare background documentation on the WATTC and that it initiate discussions with a wide range of national policy makers, beyond Administrations, with broader interests in the development of telecommunications services and the conduct of international business

GATT

The U.S. Council endorses the need for discussions on telecommunications in the GATT. We believe that many of the Green Paper's pro-competitive tenets will serve as the basis for future GATT discussions on telecommunications. In our view, a competitive environment for telecommunications services and equipment will need to contain the following elements:

- nondiscriminatory access to and use of telecommunications transport services;
- freedom for users to choose customer premises equipment;
- market access for telecommunications equipment manufacturers and value-added and information service providers;
- establishment of safeguards to prevent discriminatory and anti-competitive behavior;
- reasonable regulation and transparency; and
- unrestricted movement of information among countries and companies.

We urge the Commission to assist in fostering such an international competitive environment for telecommunications services and equipment.

CONCLUSION

The U.S. Council appreciates the opportunity to comment on the Commission's Green Paper. We hope that our comments will be helpful to the Commission as it begins to implement the Green Paper's recommendations.

We believe that the Commission has shown considerable foresight and understanding of the key issues by the way in which it has shaped the debate on the future of EC telecommunications policy. Prompt implementation of the Green Paper's recommendations will be needed in order to meet the Commission's 1992 deadline for completion of the internal market.

We urge the Commission to continue to allow public comment as it begins to implement the report's recommendations. Extensive consultations with users and industry at every stage will be critical to the success of the Commission's endeavor.